

# Hawaiian Gazette.

VOL. XXXIX, NO. 94.

HONOLULU, H. T., TUESDAY, NOVEMBER 29, 1904—SEMI-WEEKLY.

WHOLE No. 2646

## CHURCH MAY TAKE HOTEL

**Said to Have Been Offered Management of Hawaiian.**

The management of the Royal Hawaiian Hotel has been offered by the trustees of the property to Fred J. Church, present manager of the Haleiwa Hotel at Waiolua, and the managing trustee of the Hawaiian, Mr. J. R. Galt of the Hawaiian Trust Company, went to Waiolua yesterday, presumably to close the negotiations.

It is probable, if Mr. Church accepts the offer of the business, he will take charge of the Hawaiian Hotel about the first of the year.

Mr. Church has been manager at Haleiwa for about a year past and has shown a marked talent for hotel management in the building up of that property. He has, in fact, made the Haleiwa one of the most popular places of resort around Honolulu. It is, in fact, quite the proper thing for smart people now to go down to Haleiwa on Saturday to remain over Sunday, and the Haleiwa Limited is one of the most popular trains run by the Oahu railway. The going set, led by Mr. Church, has taken kindly to the house, and the fullest advantage has been made of the attractions of the beautiful place.

Before adventuring into the hotel business as manager of the Haleiwa, Mr. Church was the manager of the Honolulu Photo Supply Company and gained many friends in the city by his square business methods. He has lived in Honolulu for a number of years past and has a wide acquaintance on the various islands as well as on the mainland. In the management of the Hawaiian he would doubtless be a strong force in the rehabilitation of a house whose fame is almost coextensive with the fame of the city itself.

## GEAR TAKES BACKWATER

**Will Not Cite Governor But May Discharge Mahaulu.**

Another stage of the deadlock between Governor Carter and Judge Gear, over the refusal of the Governor to obey a subpoena to appear as a witness in the Mahaulu case, was passed yesterday.

Governor Carter having disregarded the second subpoena, issued on Saturday, Judge Gear gave a ruling in effect that under a certain eventuality the matter would drop, but if another set of circumstances ensued the jury would be directed to acquit the defendant.

Governor Carter said last night that he had nothing whatever to say in regard to Judge Gear's last stand in the Mahaulu matter. As a matter of fact, the ruling of the court leaves the matter up to the judge. It is not the Governor's move.

### THE COURT PROCEEDINGS.

When the case was called after 10 o'clock Mr. Thompson for the defendant inquired about the service of the ordinary subpoena issued to Governor Carter on Saturday, in lieu of the citation for contempt for which his motion was granted the previous day. There was no return of service on the files, but Attorney General Lorrin Andrews appeared and, producing from his breast pocket a copy of the subpoena, acknowledged on behalf of the Governor due and regular service thereof.

Mr. Andrews made a statement identical in substance with that made by Mr. Prosser on Friday, conveying the Governor's compliments and saying he would not attend court, "but because of the pressure of public business and his having nothing to testify in the case. It was added that in cases where his testimony was needed he would be willing to appear and that in the present case he intended no disrespect to the court.

Judge Gear, being informed in an-

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## GRAND JURY PROBES VOTE

**Territorial Inquisitors Steal March On Federal Body.**

As it was predicted in the Sunday Advertiser that he would do, Judge Dole yesterday called a special session of the Federal Grand Jury, stating in open court that the venire was at the request of representatives of the Democratic party here. In other words, precisely as the Advertiser said, an investigation is to be made of the matter of the so-called numbered ballots that were voted in the November election, the local Democratic managers hoping to lay some kind of ground for a contest that may possibly carry them into the House of Representatives at Washington. The House of Representatives being the sole judge of the qualifications of its own members, of course a contest can only be begun there—but an effort will be made to make something of the grand jury's inquisition here.

In the meantime, the Territorial grand jury took a new departure yesterday, going into this same matter in advance of the Federal inquisitorial body. The hallway of the government building was thronged all day with men who served on the election boards in various precincts, who were called in one at a time to tell the Territorial grand jurors what they knew about numbered ballots—and, it might be, some other things as well.

The following citizens were called to serve on the Federal grand jury at its special session, those drawn being instructed to present themselves in court on December 12: R. S. Armstrong, Paia, Maui; J. W. MacDonald, Honolulu; E. W. A. Likokasiani, Hilo; C. G. Ballentine, Honolulu; E. J. Waterman, Honolulu; Chas. Butzke, Honolulu; Henry Lancaster, Honolulu; Ed. W. Carley, Paia, Maui; S. N. Hundley, Keala, Kauai; Robt. W. Cathcart, Honolulu; Wm. Young, Honolulu; Jacob P. Wine, Honolulu; Geo. C. Watt, Waiolua; C. M. Lindsay-Watson, Honolulu; Hugh

(Continued on Page 4.)

## PORT ARTHUR IN PERIL



ADMIRAL ROZDESTVENSKY, COMMANDING THE BALTIC SQUADRON.

—Black and White.

## FINE PALOLO LANDS SOON TO BE THROWN ON MARKET

"This department is bending every effort to have the Palolo land put on the market or at least to have it advertised for sale in January," said Commissioner Pratt yesterday.

"There are, I should say, 950 acres in all to be sold up there, running up the canyons to the tops of the ridges, and clear back as far as the top of Olympus. Of this land at least 50 per cent. should be available for agricultural purposes. In fact, there should be more than that, for hillsides slopes carry good soil and should grow good grapes.

"It is the purpose to put this tract on the market in small lots, say of about five acres, so that it may be taken up by men who work in the city of Honolulu and who desire to make homes for themselves where they can raise some kind of small crops to help pay for the land. This is the only tract we have close to the city at this time available for this kind of thing.

"The surveyors are now hard at work upon the plats, and, by the latter part of this week I expect to be able to announce definitely just when the land will be advertised.

"Besides the Palolo lands we are getting ready to put on the market about 3600 acres in Pupukea and Paumotu, five miles beyond the Haleiwa hotel. This, also, should be ready to advertise early in January. This land will be in one hundred acre tracts, for the most part, although there are a few larger tracts than that available for pasture lands, and the water on the lands will be fairly divided."

## TO BUILD NEW ROAD AROUND MANOA VALLEY

"Work will commence on the new road to extend clear around Manoa valley just as soon as the necessary rights of way have been secured from the property-owners.

"We have had the building of this road in contemplation for some time past," said Commissioner of Public Works Holloway yesterday, "and I have been in correspondence with the property owners along the line of the proposed road relative to rights of way. I think those will all be donated to the government free of charge.

"The new road will start at the upper end of the present Manoa valley road and continue on around the head of the valley, coming down on the opposite side and running into the Waialae road at Moiliili bridge. This is an improvement for which the need is becoming more urgently felt from the rapid growth of the Manoa district. The road will be between three and four miles long, and will be built as fast as the funds become available for the purpose."

## DEATH OF A FAMOUS PRINCETON PROFESSOR

PRINCETON, N. J., Nov. 29.—Prof. William Paxton is dead.

William Miller Paxton, Professor of Ecclesiastical, Homiletical and Pastoral Theology in Princeton Theological Seminary since 1883 and President of the Faculty since 1900 was born in Adams County, Pennsylvania, June 7, 1824 and graduated from Pennsylvania College in 1843. In 1848 he graduated from Princeton Theological Seminary and later received the degree of D.D. His LL. D. degree was conferred by Jefferson College. The principal positions he held beside his professorship in Princeton were: Pastor Presbyterian church, Greencastle, Pa., 1849-51; First Presbyterian church, Pittsburg, Pa., 1851-66; Professor of Sacred Rhetoric in Western Theological Seminary, 1860-65; Pastor First Presbyterian church, New York, 1866-83; for several years a teacher in Union Theological Seminary; member since 1866 (President, 1880-84) of the Presbyterian Board of Foreign Missions; member 1867-83 (President, 1876-78) of the Presbyterian Board of Home Missions; Moderator in 1880 of the general assembly of the Presbyterian Church in the United States of America; trustee of Princeton since 1867; trustee Leake & Watts Orphan Asylum, New York, 1866-83; trustee Sailors' Snug Harbor, New York, 1866-83.

## AUSTRALIAN PREACHER SHOTS AT A JUDGE

SAN FRANCISCO, Nov. 28.—Isaac Selby, an Australian preacher, shot at Judge Hebbard while he was on the bench today, but missed. The attack on Judge Hebbard was the outcome of an adverse decision which the court had made in a divorce case in which Selby was concerned.

Selby was an itinerant preacher while in Australia, having in his checkered career advocated the doctrines of several different churches. Friends in Australia told him that he could make a great name for himself in the United States and that the people there wanted him. The deluded man sailed for San Francisco with his wife immediately but fortune did not seem to smile on him. Not only did his money give out but his wife, tiring of his treatment, sued him for divorce. In her complaint she alleged that Selby failed to properly provide for her support and that twice she had been compelled to sell portions of her wardrobe to satisfy the demands of landlords.

EASTPORT, Me., Nov. 29.—Ten American vessels have been seized in Canadian waters for illegal fishing and fined.

## Ninety Per Cent of the Russian Defences Lost to the Czar—Oyama Repulsed in the North.

(ASSOCIATED PRESS CABLEGRAMS.)

TOKIO, Nov. 29.—It is reported that the Japanese are succeeding in their assault, 203 meters of the principal hill having been carried and held. With the capture of this point, the occupation of the Russian works will amount to ninety per cent, and every part of the harbor will be exposed to the Japanese guns.

### BLOCKADERS DRAW OFF.

LONDON, Nov. 29.—Admiral Togo's blockading fleet has been greatly reduced.

### RENNENKAMPF DEFEATS JAPANESE.

SHENKING, Nov. 29.—General Rennenkampf's position was attacked on the 25th, resulting in three day's fighting near Da Pass. The Japanese were defeated but fighting continues.

### REPULSED AGAIN.

ST. PETERSBURG, Nov. 28.—The Japanese assault on Port Arthur on Saturday was repulsed with enormous losses.

### NO LONGER VICEROY.

LONDON, Nov. 27.—It is reported that Admiral Alexieff has been relieved of the viceroyalty of Manchuria.

### THEY KEEP THE SHIP.

ST. PETERSBURG, Nov. 27.—The supreme prize court has confirmed the seizure of the British steamer Cheltenham.

MUKDEN, Nov. 26.—It is believed the army intends winter in its present location. Skirmishing continues.

### BREAKING NEUTRALITY.

LONDON, Nov. 26.—Japan has drawn attention to the fact that British steamers are supplying the Russian fleet with coal.

### RIVERS FROZEN OVER.

ST. PETERSBURG, Nov. 26.—The Sun and Taitse rivers are frozen, impeding transportation.

TOKIO, Nov. 28.—The Japanese Diet meets on Monday. Viscount Katsura, the Premier, has said that Japan is prepared to sacrifice the last man and the last dollar in the war with Russia. The crops exceed the average by the value of fifty millions. Financial conditions are unaffected.

### SUBMARINES FOR VLADIVOSTOK SQUADRON.

CRONSTADT, Nov. 28.—Two American submarine boats have arrived for the Vladivostok squadron.



# JAPS BOYCOTT A HILO MAN

## Obedience to Law Gets Contractor Lyman Into Trouble.

HILO, Nov. 25.—The town of Hilo has been stirred, although perhaps not so much as has been represented, by the publication in the local Japanese paper of a boycott against Rufus A. Lyman, one of the leading business men of the town. The paper in question, the Hilo Shimbun, in its issue of November 14, contained a notice which has been translated as follows:

"There is a white merchant in Hilo by the name of Lyman, whose family is always taking advantage of the Japanese, with whom they do business. A few days ago, we heard the rumor that they took the lead in the labor troubles at Kukaiaua discharging many Japanese laborers. Although this may be simply politics, it is unbefitting in them. If it is a fact, it is very bad for the Japanese."

"At present, nobody is buying anything, even beef or soda water from them, but are buying from other merchants. This is a natural consequence which comes upon his family, and step by step, they ruin themselves among our countrymen. In this community where the Japanese have been their largest customers, they must consider where their profits come from."

In the Shimbun of November 16, following this publication, appeared the following card:

"NOTICE TO JAPANESE."

"We hear the rumor among the Japanese in Hilo, an account of which appeared in No. 607 in the local news column of the Hilo Shimbun, published day before yesterday, that our family were the chief promoters in discharging Japanese laborers from the Kukaiaua road work, and therefore the Japanese have decided to oppose our family. We are very sorry for this. The facts of the case are that the Hawaiian Territorial legislature passed a law signed by Governor Dole, April 23, 1903, and published as Act 37, providing that no person shall be employed on the public works except citizens of this country. And if any person employs any other kind of labor, they will be punished by a fine not exceeding \$100 and not less than \$10."

"We acted under the law and we could not help ourselves. We never intended to harm the Japanese and if anybody is angry at us for our action, they should read the Laws of Hawaii. Really we have always sympathized with our countrymen, and as a proof, we employ Japanese in our business—in our stables, soda works and meat market. In closing, we most respectfully beg your best wishes."

(Signed) RUFUS LYMAN.

"Hilo, Nov. 16, 1934."

SUNDAY LAW IN HILO.

The Herald says of the enforcement of the Sunday law:

"The matter of a Puritan Sabbath for Hawaii is one which just now has the attention of the public from Hilo to the furthest point on Hawaii. The Herald believes that in an inland town, far from the maddening crowd, such a thing has proven feasible, but in a Territory where every town is a seaport it will be difficult to purify all of the people all of the time. Such reform movements are inaugurated in different parts of the country at irregular seasons and the effect is momentary. The same result may be looked for in a Territory like Hawaii where every day is Sunday in so far as the morals of the community is concerned. High Sheriff Henry has the proper idea of how the Sabbath should be spent and he will probably see that the law is such that the public will not be deprived of every sort of relaxation on that day, because it is the day on which a great many people attend church. Any sort of enjoyment or labor that interferes with the comfort and peace of a citizen should not be tolerated in any community, but beyond that it will not be safe for the law to go. Hilo has not the saloon evil to the extent that the places have back door routes for the thirsty; when they close Saturday night they remain closed until Monday."

POSTOFFICE FIGHT.

The woods are still full of candidates for the Hilo Postmastership, and there are one or two hiding in the sugar cane fields, and that despite the fact that there is, as yet, no actual vacancy, and the present postmaster is conceded to be a most efficient official. However, there is no doubt that Madeira will go up one step in the service, and perhaps it is time for the candidates to begin getting their lightning rods into view. It is said that the place has been offered to George L. Deeba, an employee of the Honolulu office. There is a strong pull being made for Chas. Siemann. Two members of the Lyman family, Norman and Henry, are spoken of. W. H. Beers has been favorably mentioned as a satisfactory successor to the office.

HILO BRIEFS.

The collision by the local club was an innovation that will be long remembered. The decorations of the hall

were artistic and unique and reminded one of the old time barn dances on the mainland. For the accommodation of the ladies and gentlemen taking part in the dance bales of hay were provided as seats to be used during the intermissions.

Homer L. Ross leaves for the coast in December to be absent about three months. He has some important professional business to attend to in Canada and if he can get through with it in time he will go to Ohio and return to Hilo with Mrs. Ross. Otherwise he will meet Mrs. Ross in San Francisco after his return to that place from Canada and accompany her to Hilo.

Rev. Walter C. Stewart has arrived from Boston to take charge of St. James Mission here.

Thos. C. Ridgway has gone on a brief business trip to San Francisco and will return on or about January 1st. He is not a candidate for the postmastership.

Admiral Beckley entertained several members of the executive committee and the officers of the Young Men's Republican Club at a wine dinner last Thursday night at Demosthenes' Cafe. The affair was impromptu and was greatly enjoyed by those who were honored with an invitation.

On Friday, about 10 o'clock a. m., while a boat from the S. S. Helena was attempting to make a landing at Papaikou Mill, a heavy sea swamped the craft, throwing the occupants into the water. Four of the five boatmen, who were natives, swam to places of safety, but Kauhe, a Hawaiian, was carried against the rocks, where it was impossible to rescue him before he became exhausted and was drowned.

The steamer Rosecrans of the Matson line will leave San Francisco for Hilo and Honolulu on November 28th.

About ten miles off port, Captain Youngren of the S. S. Enterprise passed a huge log drifting on the high sea. He reported the fact to Agent Guard of the Matson line and on Sunday the tug Chas. Counselman went out in search of the derelict. The log was overhauled and towed into port. It was nearly seventy feet in length, white with barnacles showing that it had been adrift many years. The theory is that the tree must have drifted from the Oregon coast and was carried by the currents to the islands. Such floating timbers are a menace to navigation and often cause the sinking of a ship, when run into unawares.

THE SUBPOENA.

GOVERNOR CARTER.

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# THE GOVERNOR PLUMPLY DEFIES GEAR'S CITATION

## Will Not Come Into Court and Divulge Public Matters In His Charge.

(From Saturday's Advertiser)  
"I SHALL NOT ANSWER THE SUBPOENA, BECAUSE I DO NOT THINK IT COMFORTABLE WITH THE PUBLIC INTEREST."—Governor Carter in an interview with a representative of the Advertiser.

Governor Carter was subpoenaed to appear as a witness in the case of the Territory of Hawaii against Stephen Mahaulu, on trial before Judge Gear in the Circuit Court yesterday, and refused to honor the summons. Judge Gear then granted a motion, previously made to issue a citation today, calling the Governor to appear and answer why he should not be punished for contempt of court in ignoring the legal process.

The subpoena for the Governor was what is called in legal parlance a "subpoena duces tecum," which means a subpoena to appear in court and produce a certain paper, and calls upon Governor Carter to come into court and bring with him any document which he may have in his possession purporting to be the resignation of J. H. Fisher, Auditor of the Territory.

In other words, it is the old fight about undated resignations over again, and this time the Governor has concluded that he will not walk into the trap set for him.

"I shall not answer the subpoena, because I do not think it comfortable with the public interest," said Governor Carter in answer to a direct question yesterday.

"I was subpoenaed in the Dow case, and I went into court expecting to be asked what I knew about the case—and I was asked something entirely different. I do not know anything about this case and I do not propose, in the interest of the dignity of the Territory of Hawaii, to be subjected to that sort of thing again."

There have been few cases in which the courts of the United States have issued subpoenas of this class to the chief executives of States, but the law of such cases has been pretty plainly laid down in the decision of Chief Justice Marshall on the application for the issuance of a subpoena duces tecum for the President of the United States, Thomas Jefferson, during the celebrated trial of Aaron Burr: Burr and Jefferson were political enemies and had been political rivals, and there was perhaps some measure of politics in the request at that time for the issuance of a subpoena for the President.

Nevertheless, Justice Marshall held that a subpoena duces tecum could issue for the President, but that if the production of the papers demanded was not essential to the defense in a capital case, or if their production might be injurious to the public interest, that fact should be made to appear on the return of the subpoena. The Marshall decision has been followed by many others along similar lines, the purport of which would seem to be that the production of any state paper is discretionary with the executive, so far as the judiciary is concerned.

## IT WAS NO SURPRISE.

Deputy Attorney General Prosser, after the adjournment of court, made a statement as follows:

"The motion for a citation was no surprise to the Territory. It had been fully prepared for. There can be only one outcome of the proceedings."

"All of the decisions in different States, where the question has ever arisen, are to the same effect. The chief executive in a government cannot be compelled to come into court as a witness and bring public documents with him."

"The decision by Chief Justice Marshall in the Burr case, it is true, held that the President of the United States might be subpoenaed, but you must know that in that case the President was not required to appear in court."

"In a Pennsylvania case, the court held that, if a chief executive were compelled to appear and divulge public business in his charge, the executive department might as well be abolished and its functions handed over to the judiciary. This is in keeping with the constitutional provision of the three departments of government—the executive, the legislative, and judicial."

"There was no room for misunderstanding of the remarks I made before the court. They showed that I officially represented the Governor and that the stand taken by the Governor was thoroughly considered in advance of the occasion."

## PROCEEDINGS IN COURT.

A citation will be issued today to Governor Carter, commanding him to appear before Judge Gear on Monday morning next at 10 o'clock, to show cause if any he has why he should not be adjudged in contempt of court for disobeying a subpoena.

The alleged contempt arose yesterday afternoon in the trial of Stephen Mahaulu for embezzlement of public money. Frank E. Thompson, on the reopening of court at 2 o'clock, stated that he had caused a subpoena to be issued. As he did not observe the Governor present, he requested that the witness be called.

George R. Carter's name was accordingly cried by the bailiff three times in the court precincts without a response being returned.

Mr. Thompson suggested to the court that it should take some action with regard to the absence of the witness. Mr. F. Prosser, Deputy Attorney General, now intervened with the following statement:

"On behalf of the Governor of the Territory of Hawaii I desire to ac-

knowledge the receipt and proper service of a subpoena issued out of this court requiring the attendance of the Governor of the Territory of Hawaii before this court at 2 o'clock on this day, and that he produce certain documents in his possession, in his official capacity, before this court at the time designated in said subpoena."

The Governor of Hawaii presents his compliments to this court and respectfully declines, for reasons of public policy and the pressure of public business, to appear before this court in answer to said subpoena."

Judge Gear then asked Mr. Prosser if the Attorney General's Department was prepared to take any action in the premises.

Mr. Prosser answered that he was not aware of any proposed action. Judge Gear then ordered the police officer guarding Mahaulu, as Bailiff Ellis was temporarily absent from the courtroom, to convey his compliments to Gov. Carter and inform him that it was the court's opinion that it was necessary he should appear in obedience to the subpoena.

Mr. Prosser here informed the court that it would be of no use to send a message to the Governor, as he had

informed him positively that he would not appear in court.

Judge Gear at this countermanded his order to the policeman and forthwith granted the motion for a citation to the Governor. In doing so he expressed regret that such an extreme measure was necessary, but he could see no reason why a Federal officer should hold himself above the law. He would have to proceed in the same manner as would be required in the case of any other subpoenaed witness. The citation was ordered to be made returnable at 10 o'clock Monday morning.

As the court was adjourning at a quarter to five, Judge Gear asked Mr. Thompson if he had prepared the citation. The attorney for the defendant replied that it would be ready this morning.

## FORM OF SUBPOENA.

A "subpoena duces tecum" is defined in the Standard Dictionary thus: "A writ commanding a person to appear in court, bringing with him certain designated documents or things; literally, you will bring with you."

In Governor Carter's case the document to be brought was the undated resignation of Auditor Fisher, the obvious intent of the desired evidence being to attack the competency of the Auditor as a witness for the Government, on the ground that he was under a sort of duress from having his undated resignation hanging over his head.

## JUDGE GEAR ANNOYED.

Judge Gear, on being seen after adjournment of the court, spoke in deprecation of the unpleasant position in which the Governor's course placed him. He maintained that the Governor had not an iota of justification in law for disobeying the subpoena. In this regard he showed the Advertiser reporter the United States decision, rendered by Chief Justice Marshall in connection with the trial of Aaron Burr, where it was held the President of the United States was amenable to a subpoena duces tecum, requiring him to bring a certain letter into court. One of the sections of the syllabus of that decision by the eminent American jurist reads as follows:

"A subpoena may issue to the President of the United States to compel his attendance as a witness, and an accused is entitled to take the course."

## THE DISOBEYED MANDATE.

Following is a copy of the subpoena issued to Governor Carter, together with the serving officer's return thereon:

"In the Circuit Court of the First Circuit, Territory of Hawaii.

"Territory of Hawaii vs. Stephen Mahaulu. Subpoena.

"The Territory of Hawaii:

"To the High Sheriff of the Territory of Hawaii, or his Deputy; the Sheriff of the Island of Oahu or his Deputy; or any Constable in the Territory of Hawaii:

"You are commanded to subpoena George R. Carter to appear at the Court House in Honolulu, Island of Oahu, before Hon. George D. Gear on Friday the 25 day of November 1934 at 2 o'clock p. m., to testify as witness on the part of defendant in the above entitled matter and to bring with him any document or documents, writing on paper, being or purporting to be the resignation of J. H. Fisher, Auditor of the Territory of Hawaii.

"Hereof fail not, and of this process make due return.

"Witness the Honorable George D. Gear, 2nd Judge of the Circuit Court of the First Circuit, this 25th day of November 1934.

"WM. R. SIMS, Clerk."

"Served the within Subpoena by reading the same to the within named George R. Carter at Honolulu, Oahu, this 25th day of November, 1934, and at the same time handed... the sum of... as witness fees, and the sum of... as traveling fees.

ALBERT MCGURN,  
Deputy Sheriff.

# FINANCE IN GOOD SHAPE

## Will Probably be Surplus In Treasury This Year.

"It is not the case," said Auditor Fisher yesterday, "that the money received for taxes in this Territory is all used in the payment of salaries, nor that all public improvements are paid for out of the bond fund. The Territorial expenditures within the past year have been well within the income, and from present indications the income for this fiscal year will cover the estimated expenditures very comfortably."

"The receipts for the current year, month by month, are holding up, in fact, very well. It is possible, of course, that there may be a falling off of say ten per cent, but I do not believe that there will be any falling off whatever."

"The salary appropriation bill for the present fiscal year foots, granted that every last cent of it should be drawn, \$943,000. The expense appropriation bill foots up, if every last cent should be drawn, \$999,491. This is a total of \$1,942,491, that is if the money should all be drawn out. Against this we have receipts from taxes amounting to \$1,681,195.48. And then there is the income from all other sources. The total of government receipts for the last fiscal year was \$2,415,356.32. As we make the estimates of the income, month by month, this year compares favorably with the last, showing perhaps a slight gain, so that I am well within the truth in the belief that there will be no falling off this year."

# GLANDERS IS IN TOWN

## Animal Inspectors Take Active Repressive Measures.

"There have been a few cases of glanders, and we are hunting it down as fast as we can."

Walter F. Dillingham, member of the Board of Animal Inspectors, gave the foregoing answer to an Advertiser reporter's question yesterday.

"The Board is getting actively to work," Mr. Dillingham continued, "to locate all suspicious cases and quarantine them until we can decide whether or not they have the disease."

"In this connection, it is very important to all stock owners in the country to assist in every way to round up these cases, and, as a special inducement, the law puts a penalty upon concealment, whether one conceals his own infected horse or holds back information about another's."

"So far we have located only two cases, in the last three weeks. Yes, they were in town. It is generally believed that glanders has been present for a number of years, but the development of a number of cases within the past three months has led to the taking of active steps to stamp out the disease altogether."

"The Board is hampered by having no appropriation with which to work, but we are hoping to get assistance from the Board of Health and also an advance of necessary funds from the Stock Breeders' Association, the idea being that any advances made by private institutions will be reimbursed through special act of the Legislature."

"All animals coming into the country are subjected to careful examination by our executive inspector, Dr. Rowat, or by Dr. Katsunuma, the other veterinary member of the Board."

## RAIN REMINDED HIM OF HILO

"This reminds me of Hilo," said A. B. Loebenstein yesterday afternoon as he stood in front of the Union Grill in a dripping rain coat. "But say, it rains worse in Honolulu than it does in Hilo. That's a fact. You can stand out in the rain in Hilo and you don't get wet. The women of Hilo think it's all right if it rains on Monday, because they put their washed clothes out on the lines to dry."

"If not, why not," never cracked a smile.

# A MASTER STROKE

## AN ASTONISHING VICTORY OVER OBSTINATE SCIATICA.

Disabled for Quarter of Century Miss Mack Now Resumes Her Interrupted Work. How She Was Cured.

Miss Catherine J. Mack, of No. 42 Forbes street, Jamaica Plain, Mass., has had a most remarkable experience as a victim of sciatica, probably the most excruciating and disabling form of neuralgia, as it involves the great nerve of the hips, and makes all motion of the lower half of the body torture. Other nerves sympathize, and the intensity and steadiness of the pain make the condition of the sufferer truly pitiable. After a quarter of a century of weakness and agony, Miss Mack is now entirely free from her affliction and for the benefit of others she gives the following account of her cure:

"My illness began twenty-five years ago. During all that time I had to remain in bed several days out of every week. I had constant and very severe pain in my right hip, knee and foot, also in my right hand; in fact, my whole right side seemed involved. The pain was so intense that it was almost impossible for me to sleep or even to turn in bed. For periods lasting sometimes for two weeks I could not cross the floor and the pain was then indescribable. My mind, too, was nearly distracted by my long sufferings. It seems to me that I have lost a lifetime in such misery."

"It was just about a year ago that I began to use Dr. Williams' Pink Pills for Pale People, the remedy that finally cured me. They were recommended to me by my niece, who had learned of their worth by personal experience. I took them persistently for four months in all. At the end of two months I realized great relief and in two months more I found myself again a well woman and able to take up my long neglected occupation as a dressmaker. I had been under the care of physicians for some years and had used numerous advertised remedies, but nothing did me any good until I took Dr. Williams' Pink Pills. They have cured me and I recommend them to all who tell me they suffer as I did."

Dr. Williams' Pink Pills have cured not only all forms of neuralgia, but also nervous prostration, partial paralysis, St. Vitus' dance and locomotor ataxia. They are sold by all druggists.



# DAUGHTERS OF HAWAII

## Interesting Meeting of the Local Society.

(From Sunday's Advertiser)

The "Daughters of Hawaii" met at the home of Mrs. L. A. Coney. After the reading of reports, appointing of committees, and voting in of several new members, the Regent, Mrs. B. F. Dillingham, addressed the ladies present in substance, as follows:

The society, "Daughters of Hawaii," aims to number among its members, those who take an interest in the legends, traditions, history and scientific discoveries relating to our native land. Age seems to have a fascination with all who desire to trace an ancestry, or recall historic events. Those who interest themselves along these special lines, find to their surprise, that according to the researches made by students of languages, customs and general evolution of races, the Hawaiian stands pre-eminent among the Polynesian people. Not only have they no superior in the Pacific, but through the East Indies, on to the Malay Peninsula, in the vast country of India, and even to Arabia are there traces of their long descent. Words, customs, legends leave no doubt of this fact. In the far time of their "beginning," the ancestors were of white complexion, but climatic conditions, and inter mixture of bloods produced many variations during the centuries that followed.

It is the intent of this society to search the pages of the past, and glean all possible information relative to the long procession of events which have resulted in the Hawaiian of today. It is impossible to give even a synopsis of these possibilities in these few remarks, but the amazing genealogies of the Hawaiian families will support these intimations.

Returning now to a period antedating the Great Kamehameha by about twenty-one generations, we present today a short sketch of Paao, prepared by a student at Kamehameha School, which gives an account of the migration to this group from the islands of Samoa, of a man from whom Hewahewa, the high priest who assisted Kamehameha the second in the abolishment of the tabu system, was directly descended.

### MISS PARIS'S ADDRESS.

After the reading of the article on Paao the historian, Miss Anna M. Paris, followed with a few words relating to the inception of the society and closed with an appreciative tribute to the three ladies whose membership had not continued through even the first year. Miss Paris said:

Our society is still young. Not a year has passed since we first met, a little band, as Daughters of Hawaii. The need of some fitting recognition of our birth-right in this fair land—a something that should redeem from oblivion a past swiftly fleeting, unique in its charm and teeming with memories almost sacred—had long been felt by some of us. It needed the supreme moment to give it life. Mrs. Sarah Cogan Waters, returning for a visit to her native land, after years of absence, was our inspiration. In her enthusiasm and affection for Hawaii, its memories, its history, its people, she proved to us that those linked together by early association here are in a peculiar way united. To the descendants too, of those living here when the very remoteness added to the poetic charm, when Aloha was the pass word and hospitality the keynote of existence—Island life, its history and traditions must be a heritage rich and inalienable. It is ours as Daughters of Hawaii, to preserve and cherish this precious legacy!

Small in numbers as we are today, death has already invaded our little circle. Three of our earliest members, Mrs. Banning, Mrs. H. A. P. Carter and Mrs. Haalelea have passed into the life beyond.

Pausing in retrospect over these names, we seem lifted above the dull level of the commonplace. In "memory's sunset air," the whole horizon broadens, and beautiful vistas are opened up. Each representing a distinctive type of womanhood, these three form a trio rarely met with.

Mrs. Banning, living away from the islands was yet closely in touch with everything relating to Hawaii, and with the purpose and spirit of this society was more than sympathetic. Clara Armstrong, as so many of us knew her! What a picture of beautiful girlhood does the name recall. An ideal to some of us of womanly charm and winsomeness. Endowed with the rare gift of fascination, young and old of both sexes were alike Clara's adorers. The family gift of humor was hers, and she diffused wherever she went an atmosphere of delightful exhilaration. Her name, in the old school days, was carved on cliffs and granadillas, and etched in school books and stately forest trees today still bear the "Jack Knife's carved initials" C. H. A. Serenades to the fair Clara took place often, and the refrain, "In yon bower, there above, She sleeps, she sleeps my lady love," was frequently heard under her window. On one occasion good father Armstrong, his patience at last giving way after frequent disturbances, raised the wash and with a fearful blow to sentiment called out, "That'll do boys, that'll do—good night."

Through prevented by lack of

strength, during her later years, from taking any active part in life's duties, Mrs. Banning in her mental activity was untiring.

The best thought of the day was hers. The harmonious notes in life's music fell on her ears, while her heart reached out ever in its welcome to old friends. There was no mistaking the aloha. For her at the last, there was "no shadow from this silent land." Her life went out—

"As sinks behind the hill  
The glory of the setting star  
Clear, suddenly and still."

Mrs. H. A. P. Carter, or Gussie Judd as we love to remember her, was called early to fill a position wide reaching in its influence, and of great value to Hawaii, and how nobly did she fill it! As the wife of our representative in Washington, she was for many years the magnetic center of an admiring circle.

Her rare personality made its impression on all who knew her—all felt the poise, the strength of the woman, while the charm of the girl, the brightness and sweetness of the "Gussie" of Punahou days always remained.

To quote from Mr. W. O. Smith in his beautiful tribute to Mrs. Carter at the memorial service of the Coughlin Society: "All through her varied experiences, the beauty of character she showed, marked her as a distinguished woman. She will live in the memory of those who knew her as a cheering thought and inspiration—so lovable—so strong." An inspiration indeed is her life, for not only by her social gifts, but by her patience, her triumphant cheerfulness, and thought for others, during years of illness and suffering, has she endeared herself forever to our hearts. Like a halo, are the sweet memories that surround her name.

In the death of Mrs. Haalelea (nee Uluani Amoe Ene), a link with the past has been severed. Descended on the mother's side from the old line of Kalkilani or "Wahine Alii o Puna," as her great great grandmother was called, married at an early age to a high chief of Hawaii, and being herself a prominent figure in the court circle of Kamehameha Fourth, Mrs. Haalelea ever retained that courtliness of manner for which the aliis of Hawaii have been so distinguished. Her affection for the old days was strong as life itself, having had its growth in the most picturesque and romantic period of island history, yet, in her gracious acceptance of the inevitable as it came, she showed herself superior to circumstance and change. Devotion to whatever she undertook to do, was a marked trait in her character, as her years of faithful service in Kawaiahae church will testify, and if one had Mrs. Haalelea for a friend, they knew on whom they could rely. This quality of steadfastness was developed at a very early age. It was early in the fifties when Levi Haalelea, while on a visit to Hilo, first met the young girl who was to become his wife. An engagement took place after which he left for Honolulu, promising to return at a certain date and claim his bride. The sacredness of a promise was strong in the girl of sixteen and as the time passed and he failed to appear or to send any word she wrote breaking the engagement.

The chief, whose heart was really set upon the fair Hilo maid, was greatly distressed. Hawaii was a far away island in those days, with neither wireless telegraphy or steamer to bridge the distance. Chartering a schooner, however, as quickly as possible, he set sail for Hilo. Arriving there, a reconciliation soon followed, and a wedding shortly after was the result.

The honeymoon, spent at the old country seat of the King at Kailua, a spot unique in its setting, with its mountain background, and its frontage on the beautiful bay, where the tabu balls still guard the premises, was always a bright spot in memory to Mrs. Haalelea. She could tell of swimming to Kamakahonu, the other side of the bay, the place where the great Kamehameha breathed his last. A picturesque way of annihilating distances, but a feat requiring strength and skill. In after years Mrs. Haalelea traveled extensively and was a most discriminating observer of other lands and customs. She gained friends everywhere, for the rich memories of the past added to her ready wit and intelligence made her a delightful companion. Her place in the social life here can never be filled.

Are not our hopes stronger that such as these belong to us? Not only have they lived among us, but they are ours, for "memory is possession" and "The muster roll of life eternal has no gaps."



When the thermometer is low  
We get careless and dress as if it were summer. Then come chills, colds, coughs. Keep  
**Ayer's Cherry Pectoral**  
on hand. A dose or two at the beginning will stop the chills, break up the cold, and prevent serious trouble. Look out for cheap imitations.

Avoid counterfeits. Hasting a cure by the use of Ayer's Pectoral.  
Prepared by Dr. J. C. Ayer & Co., Lowell, Mass., U.S.A.  
HOLLISTER DRUG CO., Agents.

# SUBPOENA TAKES PLACE OF CARTER CITATION

## But the Governor Refuses to Obey It So What Will Gear Do?

(From Sunday's Advertiser)

"I WILL NOT ANSWER THE LAST SUBPOENA TO APPEAR IN JUDGE GEAR'S COURT."—Governor Carter in conversation yesterday.

Coming down a step as gracefully as may, it became evident yesterday afternoon that Judge Gear and the attorneys for the defense in the Mahaulu case had concluded not to cite the Governor to show cause why he should not be punished for contempt of the Circuit Court in refusing to obey a subpoena duces tecum to appear in court and bring with him any paper he might have in the nature of or purporting to be the resignation of Auditor Fisher.

Instead of a citation for contempt, a plain subpoena to appear as a witness in the case was served upon the Governor in his office yesterday. This put an entirely different face upon the matter, but did not change the Governor's attitude.

"I will not answer the last subpoena to appear in Judge Gear's court," said the Governor. "I do not believe that it comports with the dignity of the Territory for this department to be at the beck and call of any other."

"I have prepared a letter to the Attorney-General in response to the paper served upon me, and I have no objection to the publication of that letter."

### THE GOVERNOR'S LETTER.

The letter from Governor Carter to the Attorney-General is as follows:

November 26, 1904.

Lorrin Andrews, Esq., Attorney General, Territory of Hawaii.

Dear Sir:—In response to the enclosed summons served on me this morning, to appear as a witness in Judge Gear's court at 10 o'clock on Monday morning, out of respect to this Court, a co-ordinate Department of the Territory, I desire you to appear in person on my behalf, and inform the Court that I have no information which could possibly be of service in connection with the case in question, and do not believe it is compatible with the dignity of the office I hold to allow it to be subjected to the orders of the Court, as prompted by the whims or opinions of attorneys. It is the law that should be obeyed, not the lawyers.

The absence of the Secretary of the Territory makes the demands on my time for the details of this office far in excess of what is usual, and in my opinion, high public interests might suffer if I admitted that the Courts had a right to command my attendance. As yet, I have never refused to attend voluntarily and testify in any case, where I have been consulted and my evidence shown to be necessary.

Very respectfully,

GEORGE R. CARTER,

Governor.

The form of subpoena served upon the Governor yesterday is given below, being the regular form of such court papers:

In the Circuit Court of the First Circuit, Territory of Hawaii.  
Territory of Hawaii, v. Subpoena.

Stephen Mahaulu

The Territory of Hawaii:

To the High Sheriff of the Territory of Hawaii, or his Deputy; the Sheriff of the Island of Oahu, or his Deputy; or any Constable in the Territory of Hawaii:

You are commanded to subpoena George R. Carter to appear at the Court-house in Honolulu, Island of Oahu, before Hon. Geo. D. Gear, on Monday, the 28th day of November, 1904, at ten (10) o'clock A. M., to testify as witness on the part of the defendant in the above entitled matter.

Hereof fail not, and of this process make due return.

Witness the Honorable Geo. D. Gear, 2d Judge of the Circuit Court of the First Circuit, this 26th day of November, 1904.

J. A. THOMPSON,

Clerk.

Endorsed: Circuit Court, First Circuit, Territory of Hawaii v. Stephen Mahaulu.

### THE FURTHER PROCEEDINGS.

Following the instructions of the Governor, the Attorney-General will appear before Judge Gear when the Mahaulu case is called on Monday, and make the statement of the Chief Executive's position as indicated in the letter.

It will then be up to Judge Gear and the attorneys for the defense of Mahaulu. Whether contempt proceedings will be instituted, or whether the whole matter will be allowed to drop, is a matter that cannot, of course, be foretold at this time.

As to Auditor Fisher's part in the matter, he is the Auditor de facto of the Territory in any event—and that would seem to settle the status of his testimony.

# ISLANDS OF VOLCANOES

## Visitor Tells of Some In Sumatra and Java.

L. Hundeshagen, a Hollander, residing at Loeboe, Sikaping, Surabaya, arrived on the Gaelic and is a guest at the Hawaiian Hotel. It was the intention of Mr. Hundeshagen to visit the volcano, but owing to a lack of time he is compelled to forego this pleasure.

The visitor is from a group of islands which fairly bristle with volcanoes. On

Java he says there are a score or more craters, many active to a certain extent. On Sumatra there are a large number of volcanoes, several being wreathed in smoke nearly all the year. Some have never been visited or explored by white men.

Mr. Hundeshagen anticipated exploring the one which has attracted the most attention and of which absolutely nothing is known, but owing to the length of time it would take to make the round trip, which would have interfered with his duties as a mining engineer, he gave up the project. After leaving the coast Mr. Hundeshagen calculates it would take about two weeks to make the ascent and nearly the same amount of time would be required to return. The great difficulties in cutting through jungles and ascending getting into a region of extreme cold.

"On Sumatra there is also considerable gold and copper mining," said Mr. Hundeshagen. "What is needed is more outside capital. If American capital were invested in the returns, I am

sure, would be great. The people there make no exertion to work the mines up to what they should. That gold has long been known to be in Sumatra lies in the fact, or tradition, that Chinese worked the deposits hundreds of years ago."

# WIDE TIRE ACT HURTS

MAUI, Nov. 26.—Thanksgiving Day was passed most quietly on Maui. The various plantations allowed no holiday, so there was no celebration in the way of sports. Family dinners alone marked the day.

### AN UNPOPULAR LAW.

Among several obsolete laws to be enforced on Maui is the so-called "wide-tire act." The tires of all wagons must be 1½ times the diameter of the axle, and the hind wheels must not run in the same track as the front ones. The three-year time limit for changing the running gear of wagons expired three years ago and Sheriff Baldwin has ordered his deputies to enforce the regulation. This law is most unpopular among the owners of carts and wagons. They state that the expense to be incurred by the change will be excessive, and that wide-tired wagons on narrow roads are always slipping into the gutters. As to cutting up the roads with narrow tires they say that they are willing to pay an additional tax of \$2 per cart annually to keep public thoroughfares in repair.

### SALOON DEPRESSION.

The saloon on Maui as an institution seems to have been losing its popularity recently. In Lahaina, the only licensed place for the retail sale of liquors is the Pioneer Hotel, where formerly, in addition to the hotel, licenses to sell intoxicating beverages were held and used by Matt McCann, John Richardson and Wm. White. In Hana the only saloon has recently been closed. In Kula the license of its only liquor dispensary has been allowed to run out and has not been renewed.

In Wailuku there is no apparent diminution in the retail liquor trade and the rivalry between "The Aloha" and "Borba's" is as keen as ever.

Why Maui saloons are being closed is a question for the sociologists.

### BASEBALLISTS WORRIED.

Baseball enthusiasts are wondering what the police department will do concerning Sunday baseball games. At the present time the baseball season is over. It is probable that league baseball games on Maui will in the future be played on the Kahului polo grounds instead of Wells' Park as in the past.

It seems that on the 10th of the present month the four years' lease (a verbal one) of the Wailuku grounds known as Wells' Park expired and that Manager C. B. Wells of the Wailuku plantation will not consent to renew it. However, no authoritative action has yet been taken by the Wailuku Athletic Association, which doubtless will endeavor to induce Mr. Wells to reconsider his decision.

### JAPANESE PATRIOTISM.

The present war has aroused Japanese patriotism to a high pitch. At all the Japanese laborers' camps throughout Central Maui tall flag-poles have been erected and braced up with wire guys. From these masts large flags with white field and red disc in center are often seen floating in the breeze.

Every Saturday from Kahului a number of Japanese reserves depart in the Claudine for Honolulu and Japan. They come in from plantation camps in a wagon decorated with four or five large Japanese flags mounted on bamboo poles. Surrounding the wagon there is always an escort of fifteen or twenty friends on horseback.

### GOOD MAN LEAVES.

George H. Baldwin, who has been a well-known resident of Hamakua for the past five or six years and who was the engineer who recently completed the construction of the Hamakua extension ditch, has permanently removed from Maui and will engage in business in Berkeley, California. He will be much missed by his Makawao friends.

### THE PINEAPPLE CROP.

The estimated pineapple crop at Haku from both plantation and lands belonging to the Fruit and Packing Co. for 1905-1906 is 200,000 pineapples. The company found no difficulty in disposing of the fruit packed in tins by it during the past season—in fact people at the Coast stated that they would take all that the Haku company would ship them.

The H. F. & P. Co. is now busy planting out pines.

### NOTES.

The Republican district committee has notified the different precinct clubs to hold meetings for the purpose of making recommendations to the Maui delegation to the legislature of 1906.

Manager James Kirkland of the Kahului store is expected to return from California today. He went to the Coast to select a large stock of Christmas goods.

Matt McCann, the Lahaina hotel keeper, is at the Coast.

On Wednesday Maunaloa Seminary closed until after the holidays.

A new one-room school house is soon to be constructed at Peahi. The people residing in that vicinity will appreciate a new building, which is much needed.

Miss Clara Wright returned to Kohala by the steamer Kinau. She has been visiting Mrs. L. von Tempelky of Makawao.

G. S. Aiken is acting as "temporary deputy port collector" at Kahului in the absence of his brother, W. O. Aiken.

# RECALLS AN OLD CRIME

## Kana's Murderer In Prison Thirty Years Ago.

A coroner's jury yesterday reached the conclusion that Joseph Kana, who died in the Queen's Hospital on Thursday night, came to his death as a result of a knife wound inflicted upon him by an aged native of the name of Kahiliakau, his brother. Chester A. Doyle, who has worked up the case against Kahiliakau for the Attorney General's department, has secured a full confession from the accused man. Kana died from a wound inflicted during the course of a row at the family home on last Saturday night.

The man who did the cutting is in his eighty-ninth year, and more than thirty years ago served a five years' sentence on the reef for murderous assault.

Under the heading of "A Savage Attempt at Murder" the Advertiser of April 27, 1872, prints this story:

"Last Wednesday evening, at a quarter before eleven o'clock, a native boy came running into the station house with the information that Mr. C. C. Bennett, who keeps a variety store on the Kalihi road, about a mile and a half from town, had been almost killed by a native named Makanaul. Both the Marshal and Deputy were near at hand, and proceeded with all possible dispatch to the place, accompanied by Dr. McGrew. Mr. Bennett was found to have received two cuts with a large, twelve inch butcher knife, one across the back of the neck at the base of the skull, which was six inches long and one and a half deep, and the other on the cheek, which was slight. Although the first cut made a horrible gash and bled profusely, the doctor who dressed the wound apprehends no immediate danger to life."

After mentioning the arrest of nine different men for the crime, the Advertiser relates that Kahiliakau, a hanger-on at the fishmarket, was finally taken into custody as the tenth and was recognized by Mr. Bennett as his assailant. The man pretended to be insane after his arrest, but was tried at the ensuing term of court nevertheless and sentenced to five years' on the reef.

Mr. Bennett, the victim of Kahiliakau's fury, was a man of considerable prominence in the Honolulu of his day. He was the man who first numbered the houses of the little city, some mischievous boys going about at night at that time and tearing down the numbers after he had put them up. He lived for a considerable time after he had been assaulted by the native.

# HE CANED VON GREBST

Count von Grebst, a Swedish war correspondent en route to the seat of war, who is a passenger on the Manchuria, was the hero in an episode in San Francisco which is told in the Examiner of November 17, as follows:

"Spider Kelly," whose true name is James Curtin, will have to defend his liquor license because he caned a Swedish count.

"Spider's" saloon is at 28 Eddy street. During the early morning of November 12th, Count Nils Bonde of the Royal Life Guards of Stockholm was passing "Spider's" place with W. Asen Grebst, Japo-Russian war correspondent, for a Swedish newspaper, and Charles Hollingsworth, a traveling companion. A drunken woman was on the street and the three men stopped to look at her.

According to the affidavits in the possession of the police, "Spider," who was drunk, rushed upon the men and asked them what they were looking at. He swore at them and then struck Grebst with a cane. He also belabored Count Bonde with the same weapon. "Spider" was arrested for drunkenness, as the aggrieved men would not lodge a battery charge against him.

Captain Duke's report of the matter, which was read to the Police Commissioners last Tuesday night, states that the foreigners have left the city, and that he could not do better than get their affidavits. Upon Duke's report the commissioners cited "Spider" to appear and show why his license should not be taken from him.

### HAPPILY SURPRISED.

Many sufferers from rheumatism have been surprised and delighted at the prompt relief obtained by applying Chamberlain's Pain Balm. A permanent cure may be effected by continuing the use of this liniment for a short time. For sale by all Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

on Kaula.

The steamer Nevada arrived in Kahului from Honolulu early Friday morning and will depart on Monday or Tuesday of next week.

Last Sunday a steamer landed fifty Japanese laborers at Kahului for East Maui plantations.

The Ladies' Reading Club met at Mrs. S. E. Taylor's at Hamakua on Friday afternoon.

Weather: Extremely cold the latter part of the week.







# SWEAT BOX CONDEMNED

## Supreme Court Roasts Peculiar Police Practice.

A unanimous decision of the Supreme Court in the case of Matsumoto Moritaro, under sentence of death for murder, unqualifiedly condemns the exhumation of suspected persons by the "sweat box" method and strongly censures the conduct of Chester A. Doyle, a detective, in assaulting the defendant, Moritaro, while under arrest. Nevertheless, the exceptions from the Fifth Circuit Court are overruled and case is remanded to that court. The findings contained in the syllabus are these:

"A confession by a person accused of murder made in the presence of the sheriff, his deputy, a detective and an interpreter not in the employ of the prosecution held admissible in evidence, notwithstanding the fact that the sheriff charged the defendant to tell the truth, and did this because other witnesses had implicated defendant."

"A slight assault by a detective upon defendant during an interview at which the detective sought to obtain a confession from defendant, but failed to do so, held not to affect the admissibility in evidence of a confession made two days subsequently."

Justice Hatch writes the opinion of the court. M. F. Prosser, Deputy Attorney General, appeared for the prosecution, and A. G. Correa for the defendant. Matsumoto Moritaro was convicted and sentenced to death at the March term of the Fifth Circuit Court, Kauai, for the murder of one Albion H. Glenan by exploding seven or eight sticks of giant powder under his bed. Of a number of exceptions to the admission of evidence at the trial, the only one presented to the Supreme Court related to the admissibility of a confession made by the defendant.

Moritaro was arrested in Honolulu and sent to Kauai while in jail there. He was interviewed by Detective Chester A. Doyle for the purpose of obtaining a confession from him, if possible. Of this matter the opinion of the court gives the following account:

"Doyle testified to the court, on a hearing had in the absence of a jury, as to the admissibility of the confession, that he started in to ask the defendant everything he could possibly think of leading up to the time he came to the islands and as to his connection with the plantations. Doyle says that the defendant told so many conflicting stories and lied so that when we called his attention to his conflicting statements and asked him if he wasn't lying he would remain silent. Every time I questioned him he would tell another story and he would get tripped up, and eventually he got very insulting and used language that you or I would not take from anybody and I shook him and boxed his ears."

"Court—More than once?"

"A. I think more than once."

"Q. So as to inflict any bodily injury?"

"A. There were no marks on him. I struck him with my open hand over his ears."

"Q. You struck him in consequence of his using insulting language to you?"

"A. Yes, sir."

"Q. After you had shook him and boxed his ears, you say, did you have any further conversation with him?"

"A. None, we left him."

Two or three days after the incident thus related the defendant, after having been seen privately by one Kawahara at his house he took refuge the morning after the murder, made a confession in the courthouse in presence of Sheriff Coney, Deputy Sheriff Rice, Mr. Doyle, Mr. Prosser and Mr. Shea, the last named being the Japanese editor of the Garden Island newspaper. Before the defendant made his statement he was charged by the sheriff to "tell the truth," because other witnesses had implicated him. Mr. Shea testified that the defendant was warned before making any statement that everything he might say would be used against him. It was on cross-examination that the sheriff said he told the defendant to tell the truth because other witnesses had implicated him. The Supreme Court says:

"It is not clear that this fact of the implication by other witnesses was communicated to the defendant by the sheriff. If, however, he had stated this to the defendant, though it was an improper statement to make to him, we do not think that under the circumstances this alone should render the confession inadmissible."

The court considers the case of Bram vs. United States, where a confession was rejected for a similar statement but as one of a number of circumstances taken together, concluding that the other facts in the Bram case were not all analogous to this case. In the Bram case the defendant was subjected to great personal indignity and browbeating. It is found that the admission of the confession in evidence by the trial court in this case was a correct ruling. Also, it is found that "the misconduct of Doyle on the occasion two days previous" did not have any influence in causing the defendant to make the confession. The assault, though inexcusable, was in fact trivial in its nature. All of the circumstances showed that it made a very slight impression, if any, upon the defendant.

"Notwithstanding this," the court says, "the action of Doyle on that occasion calls for severe condemnation. To lay his hands at all on one held under arrest was a cowardly thing to do and a gross violation of the rights of the prisoner. A confession made at that time and under those circumstances

# THE WRIT UNLAWFUL

## Judge Gear Exceeds His Powers In Habeas Corpus.

Judge Gear is found by unanimous opinion of the Supreme Court, written by Chief Justice Frear, to have committed error in granting a writ of habeas corpus for the release of Goto, sentenced by another Circuit Judge to pay a fine of \$350 and costs on his plea of guilty to the charge of selling liquor without a license. This decision is on a writ of error sued out by Arthur M. Brown, High Sheriff. E. C. Peters, Deputy Attorney General, appeared for plaintiff in error, and Cathcart & Muirhead for defendant in error. The syllabus of opinion reads as follows:

"Circuit Courts have no jurisdiction to issue writs of habeas corpus in cases in which such writs are not demandable of right. Such jurisdiction is confined by the statutes to the Supreme Court, its Justices and the Circuit Judges. The jurisdiction to issue such writs is not inherent in the Circuit Courts in the sense that the Legislature cannot vest it in other courts or in the judges, to the exclusion of the Circuit Courts as such, nor does the Organic Act deprive the Legislature of such power."

Judge Gear released Goto from prison, to which he was committed in default of paying his fine, on habeas corpus for the reason that his punishment was infamous and therefore unlawful without his having been indicted by a grand jury. On the writ of error it was contended "(1) that the Circuit Court was without jurisdiction to issue writs of habeas corpus and (2) that the offense was not infamous and so could be tried on information and complaint." The appellate court says: "No opinion need be expressed upon the second of these contentions, as we are of the opinion that the first must be sustained."

Reviewing the laws on the subject the court says: "So far as the statutes go, therefore, a Circuit Court cannot issue a writ of habeas corpus in a case in which it is not demandable of right and probably not in any case."

A case of the writ being "not demandable of right," as explained to an Advertiser reporter, is where the writ is employed instead of the right of appeal by a convicted person to escape punishment. If habeas corpus were available for such a purpose and within the power of the lower courts to grant, the result would be that criminal cases would take that route as the shortest and one judge would decide appeals from another judge in disregard of the appellate court of the country.

## CALIFORNIA GROWERS HELPED BY HAWAII

California fruit growers may, according to information that has been received by the horticultural commissioner of California, be greatly benefited, to the amount of many thousands of dollars, by a proposed move in Hawaii to shut out fruits from portions of the world where insects dangerous to vegetation infest trees and fruit. This will compel purchases here, Alexander Crew, who is now the Hawaiian superintendent of entomology, has recommended to the board of commissioners of agriculture and forestry that all fruits from China, Japan and other Asiatic points shall be denied entrance into Hawaii.

The dreaded fruit fly abounds in these places. These flies belong to the same family as the melon-cucumber fly, against which California has quarantined. So great have been the ravages of the fruit flies that in Queensland and Western Australia fruit can hardly be raised. In Cape Colony, South Africa, fruit trees must be covered with mosquito netting to enable the horticulturists to raise a crop. This makes fruit growing a very expensive business, even where the government buys the netting and furnishes it to the farmers free of cost to them.

Importations of fruit from China and Japan have recently been received at Honolulu in which also were contained the larvae of the Chinese fruit moth.—California Fruit Grower.

could not have been received in evidence, for the law cannot measure the force of the influence used, or decide upon its effect upon the mind of a prisoner, and therefore exclude the declaration if any degree of influence has been exerted.

"The whole procedure of police investigation known as the 'sweat box' is a matter which has no warrant of law. It is entirely at variance with the spirit of the common law. As pointed out in Bram vs. United States, it is condemned by the English courts as unfair to the prisoner and approaching dangerously near to a violation of the rule protecting an accused person from being compelled to testify against himself. Without holding that no interrogation can be put by the police to a person arrested on suspicion, such investigations must be conducted with a due regard for the rights of the accused, and must be free from browbeating, intimidation and undue pressure of any kind."

# DILLINGHAM PROPHECIES BRIGHT FUTURE FOR HAWAII

## Railroad and Plantation Promoter Paints a Vivid Picture of Prosperity for the Islands with Prevailing High Prices for Sugar.

B. F. Dillingham, in robust health and as keen and active as ever in affairs, returned from San Francisco yesterday after a long absence. Mr. Dillingham is optimistic over the future of the islands and considers the financial outlook the best. He thinks the sugar situation strong and he believes that it will continue so for two or three years.

"I think Hawaii is in very much better shape financially than she has been for some time," said Mr. Dillingham yesterday. "I think there is a fine outlook and the people ought to feel encouraged. According to sugar statistics the surplus is entirely wiped out. It stands to reason that there will be less sugar to sell, and therefore it should bring higher prices."

"The present situation in the sugar market will tend to stimulate production but I don't think there is anything to be afraid of."

"All these new sugar plantations have got just as good a show as any in the country. All they need, and have needed, is a good price for their output—they naturally have to receive as much or more for their sugar than it costs to produce it. I think people will do well to invest in them. I see by the stock quotations the prices are going up and seem to be firm."

"We all want to see sugar go up, because it is a financial necessity for the future of the islands to have a good price for the output. The price has gone up steadily and will stay until the production catches up with the consumption. The production is still in arrears."

"I think we are likely to have a good paying price for at least three years."

"People on the coast expect to see Hawaii do well. Every one I have met seems sanguine as to the future of the islands. Of course there are only a few Hawaiian stocks on the San Francisco Stock Exchange, and those are the stocks which are most familiar to the general run of coast people and they judge by that standard. There are few agents of the other plantations there, except, say, Ewa, McBryde, and Olua."

"I think there is going to be great prosperity here in the sugar business if prices hold up anywhere near where they are for a few years. That will put this country in a fine financial condition."

"Of course, if the islands endeavor to increase the output it is going to take a lot of time and money to do so. Many of the new plantations are just getting to the point where they are a factor. It takes time to bring a plantation up to the point of paying dividends."

"Looking back over the history of some of our best paying plantations, you can see they did not pay dividends at first. Take the Hawaiian Agricultural Company for instance. It was eight years before that company paid a dividend. When the machinery arrived on the beach, a commission was appointed to go over to the plantation and see whether it was worth while putting up the machinery. Some wanted to abandon it altogether. That committee, to the best of my recollection, reported in favor of abandonment. There was one man, however, Henry May, I believe, who had backbone enough to keep at it and finally they went ahead with the proposition. Ewa did not pay a dividend until 1896, or six years after it was started. And so you can go through the history of all the plantations."

"Yes, I feel better now than for many years."

## CAPT. LYON, THE NEW NAVAL CHIEF, TALKS OF HONOLULU

"I find that Honolulu in its physical aspects has changed very greatly, and for the better, since my visit here in the long ago," said Captain Henry W. Lyon, the new commandant of the Naval Station, last night.

Captain Lyon sat on the lanai at the Hawaiian Hotel, and smoked an after-dinner cigar in reminiscent mood. "It is a little too soon, is it not," he asked in the beginning, "to get my impressions of this beautiful island city?"

"Yes; if you put it that way. I was here many years ago, and I note many changes. Honolulu, in its physical aspects, has changed very greatly and for the better. The place is still as always very beautiful, a charm about it that is most attractive."

"I find that many new modern buildings have gone up since my time, and the residence section has spread very greatly out toward the Punahou district. The people used to live, for the most part, up Nuuanu valley and within a close radius of this hotel, with some residences at the beach. A new city has grown up and there are many beautiful homes in a section which, in my time, was wild land."

"Especially noticeable in the Honolulu of today is the street car system. It is wonderful in its completeness and its efficient service. Why, you can go anywhere on the electric cars here. I have been in most of the cities of the world, I think, and I know nothing to equal it anywhere in a town of this size."

"I notice, too, that the harbor here is much better, larger and more commodious than it used to be. In my time the war vessels used to have to tie up to the reef. Now there are good wharves and the ships can come right alongside, and harbor facilities equal to the best—and there is nothing over at the Reef at all."

"No. I know next to nothing of Pearl Harbor as yet. I have not visited the place, but must do so at once because I want to get acquainted with all the parts of my bailiwick. You see, I have hardly had time to study matters up, having only gone into the most pressing details with Admiral Terry. But we must get ready to do something at Pearl Harbor. I suppose, and it is the more important to do this because I see that it is reported that the army has purchased or is purchasing fortification sites there. That will mean work for us."

"To come back to Honolulu, I find many changes, and for the better. This hotel, even, has changed and improved, and this is particularly noticeable in these broad and comfortable porches. There could be nothing more pleasant in this climate."

# ONE MORE DAY PASSES

## Fisher's Testimony Held Good By Court.

Stephen Mahaulu's trial for embezzlement of public moneys has dragged through another day. After Judge Gear delivered his ruling on the Governor's refusal to appear as a witness elsewhere reported, Deputy Attorney General Prosser moved that the jury be instructed to disregard the statements just made by the court.

Judge Gear said the motion was quite proper and accordingly instructed the jury that nothing contained in the ruling of the court should be regarded by them as evidence.

Mr. Prosser was about addressing the court on the subject of certain Land Office schedules, the admissibility of which was under contest when the trial was adjourned on Friday. The court cut him short with a ruling that the schedules would be admitted.

J. H. Fisher, Auditor of the Territory, then resumed the witness stand. His examination on the Land Office records was concluded. On cross-examination he admitted that upon his appointment to office he had placed his resignation in the Governor's hands, and then on redirect examination testified that he did not know whether or not his resignation had been accepted.

Mr. Thompson for the defendant then moved that the testimony of Mr. Fisher be stricken out on the ground that he was not the Auditor of the Territory because he had given his resignation to the Governor.

Judge Gear took until after recess to rule on the motion. When the court resumed at 2 o'clock he denied the motion. After some remarks based on the Organic Act to the effect that the taking of undated resignations from officials by the Governor was illegal, adding that if the appointment and resignation were both valid the official might withdraw his resignation at any time, the court thus decided:

"There being no doubt that Mr. Fisher has been and is now acting as a de facto officer of a de jure office his testimony should not be stricken out, even if he does not hold the office under a full and legal appointment. The motion to strike out on the ground stated will therefore be denied."

Auditor Fisher was then again called to the stand, this time to be examined on the books of the Treasury with relation to the case.

Mr. Prosser expects to conclude the case for the prosecution today.

**PARKER CASE INNINGS.**

There was an interruption of attorneys in the Parker guardianship matter yesterday morning, the Mahaulu trial being sidetracked for a few minutes until the court should find what it was all about.

Mr. Magoon, attorney for petitioner Low, wanted to have the testimony of J. T. McCrosson taken before he left for the mainland on Wednesday.

Mr. Kinney, of counsel for the guardian, raised a laugh by saying, "We do not wish to press those contempt proceedings against the court," the allusion being to the suspension of the case pending the appeal to the Federal Supreme Court on the question of jurisdiction.

Judge Gear said he had received no restraining order from the Supreme Court. It was quite proper to have Mr. McCrosson's testimony taken, but the court would not hear the whole matter at that time owing to the Mahaulu trial.

The taking of Mr. McCrosson's testimony was set for 4 o'clock, when it proceeded with all parties to the litigation represented.

**ARRAIGNMENTS.**

A. McDuffie's pleas, under indictments for receiving bribes as a police officer, were further continued yesterday until tomorrow.

William Hoopli pleaded not guilty to burglary.

Kuramatsu pleaded not guilty to manslaughter.

**MANDAMUS TO DE BOLT.**

A writ of mandamus to Judge J. T. De Bolt has been ordered to issue by Chief Justice W. F. Frear, on the petition of John D. Spreckels and Adolph B. Spreckels, partners under the name of John D. Spreckels Brothers. The writ is made returnable before the Supreme Court on Monday, Dec. 5, at 10 a. m., and commands Judge De Bolt to proceed with the hearing of the case of Charles A. Brown vs. John D. Spreckels and others or show cause to the contrary.

There is a history of the cause given in the petition. It is an action in ejectment which was filed in the Fourth Circuit Court in December, 1898, and came on for hearing before Judge Little, who after one mistrial ordered a nonsuit to be entered. This order was reversed by the Supreme Court and a new trial ordered. Thereafter the present petitioners moved for a change of venue, which was contested by the plaintiff but without raising the point of Judge Little's disqualification, and Judge Little ordered a change of venue to the Third Circuit Court, to which no exception was taken by the plaintiff.

A trial in the Third Circuit Court re-

# HUSBANDS AT HOME

## High Sheriff's Quiet Sunday Aids Wives.

"It was a quiet Sunday," said High Sheriff Henry yesterday. "It was kept in a manner which should not arouse criticism at any point. The rain did much to help us and I guess most men were glad to stay at home."

"It appears to me," the High Sheriff continued with a smile, "that the wives in this city ought to thank me for arranging Sunday so that their husbands will stay at home."

"Wives are generally complaining about the lodges keeping their husbands out at night. They say that their husbands work during the week days and go to lodge at night, so that they see very little of them. Now with a quiet Sunday there is no reason on earth why husbands should not stay at home all day with their wives."

.....

sulted in a disagreement of the jury, whereupon the parties stipulated that the cause might be transferred to the First Circuit Court. Judge Edings ordered the cause so transferred.

The cause was tried in the First Circuit Court before Judge Gear, when a disagreement of the jury resulted. At the present term the cause was assigned to Judge De Bolt and, at its calling, counsel for plaintiff for the first time raised the question of the disqualification of Judge Little to make the order changing the venue. Judge De Bolt thereupon refused and still refuses to proceed with the trial or to set it for hearing, for the reason that Judge Little was disqualified, by reason of having given a judgment of nonsuit, from subsequently making an order of change of venue.

The petitioners contend that the reason of Judge De Bolt is insufficient in law, therefore pray for the writ of mandamus. The lawsuit relates to lands on the Hilo waterfront.

**GUARDIANSHIP CONTEST.**

Judge De Bolt yesterday further heard the petition of Rebecca Kanahele for the removal of E. F. Kalamau and the appointment of herself as guardian of two minor girls. Resuming today the court will visit the house of a native woman, a witness in the case, to take her testimony there owing to her inability to attend court.

The jurors in Judge De Bolt's court are required to be in attendance on Thursday.

**CASE OF THE MILLS.**

By unanimous decision of the Supreme Court, written by Justice Hartwell, the exceptions of defendant to the verdict are sustained in the case of Pacific Mill Co., Ltd., vs. Enterprise Mill Co., Ltd. The verdict is set aside, the judgment thereon vacated and the case remanded to the First Circuit Court for a new trial. Robinson & Wilder for plaintiff. Ballou & Marx for defendant.

The action was a case for damages of \$2079.27 for unlawfully taking possession and converting to his own use by the defendant of certain goods and chattels belonging to the plaintiff. A jury on March 18 last rendered the verdict now set aside, awarding the plaintiff \$300 with interest at 6 per cent per annum.

Emmett May, now absent from the Territory, is head of the Pacific, and Peter High of the Enterprise company.

**HANA PLANTATION CASE.**

In the suit of Sigmund Greenebaum and Charles Altschul, trustees, vs. Hana Plantation Co. and others the Union Trust Co. of San Francisco, one of the defendants, has filed an answer and cross bill. It denies that the first mortgage of Hana Plantation Co. to the plaintiffs covers, includes, or is a lien upon the sugar mill, railway, rolling stock and any personal property acquired after the mortgage was given, also denies that it is a lien on the crops of sugar cane now growing on the lands mentioned in the complaint of plaintiffs. For itself the Union Trust Co. complains against the plaintiffs and Hana Plantation Co., setting up the facts of its second mortgage on the property to secure payment of its mortgage bonds of \$100,000 held by this complainant, with interest from January 1, 1904.

The prayers of the cross bill are for adjudication of the Union Trust Co.'s lien, for an accounting, for the appointment of a receiver, for a sale of all of Hana Plantation Co.'s property, for application of the proceeds to satisfy this complainant's claim and to pay its reasonable counsel fees, costs, etc., and for such other and further relief as to the court may seem proper.

**COURT NOTES.**

Mrs. Noblitt was appointed by Judge De Bolt as administratrix of the estate of her late husband, Dr. William S. Noblitt, under a bond of \$3000. C. A. K. Hopkins, J. A. Thompson and P. H. Burnette were appointed as appraisers of the estate.

Julio P. Rego petitions that J. J. Rodriguez be appointed guardian of his minor brothers, Jose P. and Manuel de Rego, who have certain property interests to be guarded.

Kealoha M. Kealiloholui has brought a divorce suit against Kealiloholui on the grounds of intemperance and failure to support her.

Fusa Hirota is suing for divorce from Bunuchi Hirota on the grounds of extreme cruelty and non-support.

E. Madden is manager of the Hawaiian Mill Co., not George Osborne, as stated.



# PROLONG WRANGLING

## Trial of S. Mahaulu One Running Fight.

Stephen Mahaulu's trial for embezzlement of public funds made but slow progress before Judge Gear yesterday. Auditor Fisher was on the witness stand morning and afternoon, testifying with books and papers of the Public Lands Department, regarding the \$225 paid by Mary E. Clark and the \$4500 paid by the Waiwale Company, for certain land dues respectively, which money the prosecution is attempting to prove were converted by the defendant to his own use. The 7, 1902, to the date of the indictment. Evidence covered a period from June 1901 to the date of the indictment. It was the same intermittent combat over the competency, relevancy and admissibility of evidence which had characterized the trial from the beginning. One sample of the proceedings will suffice for the whole.

The ledger of land rents was introduced, whereupon Mr. Thompson objected that its admission was incompetent, in that the volume was not a book of original entry. The court sustained the objection.

Mr. Prosser then questioned the witness regarding the account of Mary E. Clark on page 401. On this also being objected to, the Deputy Attorney General argued that the evidence sought to be prevented was an admission by the defendant in his own handwriting.

"It is not a book of original entry," the court remarked.

"It does not matter whether or not it is a book of original entry," Mr. Prosser contended, "as it is an admission in the handwriting of the defendant. This is not brought before the court as a book of original entry, but as an admission in the defendant's handwriting, showing a sum of money charged to Mary E. Clark on a certain date."

"It only shows that he has copied that entry from another book," the court rejoined.

Mr. Prosser again urged his contention of a distinction the proposed evidence had from that of a matter of original entry. On which the court ruled:

"I have no doubt that the objection is well taken."

Mr. Prosser persisted by way of presenting an authority.

It was then 3:45 p. m. and the trial was continued until 10 a. m. Monday. The court adjourned until 9:30 the same morning.

### LATEST INDICTMENTS.

All of the latest batch of indictments, numbering twenty-one, returned by the grand jury were released from the secret file yesterday morning and a number of the defendants arraigned.

Harry C. Mossman, former state house clerk, is defendant to five indictments alleging the embezzlement of fifteen separate amounts of money, the first on September 30, 1902, and the last on the corresponding day of 1904. The aggregate is \$177.30. He at first reserved his plea, but later entered one of not guilty. Geo. A. Davis appearing as his counsel. An application for reduction of his bail was granted. Judge Gear making the total \$2500 instead of \$5000. A bond was furnished under which Mossman was released.

Ah Tam and eleven other Ahs were arraigned for gambling and R. W. Breckons, as their counsel, had their pleas reserved until Monday.

A. McDuffie, former police detective, had his plea to five indictments for accepting bribes reserved until Monday by his counsel, Geo. A. Davis.

Ah On, former policeman among the Chinese especially, pleaded not guilty to three separate indictments for receiving bribes. Geo. A. Davis and F. E. Thompson are his counsel.

Defendants yet to plead, besides those already mentioned, are the following: M. P. Lagan, embezzlement from the O. R. & L. Co.; Wm. Hoopli, burglary; Jose Reveira, vagrancy; Henry Romero, vagrancy; Otomatu Kawano, manslaughter; Gan Gin, lottery tickets in possession.

### THIRD COMPLAINT.

An amended complaint, for the second time, has been filed in the action for seizure and detention of goods brought by the firm of Yan Wo Tong against Hoffschlaeger & Co., Ltd., and A. M. Brown, High Sheriff.

Defendants are charged with having, on March 15, 1904, unlawfully, wilfully, and forcibly broken into plaintiff's store on Hotel street, and then and there seized and carried away certain goods, of which an itemized list is given showing a total value of \$505.42, and kept the goods in their possession until April 5, 1904, when they returned them after an action of replevin had been brought for their recovery. Damages are claimed in the sum of \$1500, together with costs.

### AN AGGRIEVED LESSEE.

In the covenant suit of Chung See vs. Kahannu Meek, the plea in bar stands submitted before Judge Robinson on briefs. L. A. Dickey for plaintiff; J. J. Dunne for defendant. The sum of \$2256.50 is claimed, with interest from March 24, 1898, as damages for terminating a lease on the pretext of conditions broken. According to the complaint, the lease was given to plaintiff on July 8, 1895, by Keakalani Mekini and Mekini Oulu, her husband, for the term of ten years at \$140 a year, the leased premises being on the upper side of Merchant street, near Alaka street. On February 8, 1897, the lessors converted all their interest in the lease to the defendant. Plaintiff alleges that, relying on the covenant in the lease,

he erected two buildings on the premises, one costing \$1255 and the other \$1125. When the defendant entered to terminate the lease she refused, it is asserted, a tender of \$140 rent for the year ending June 30, 1901.

### FORECLOSURE SUIT.

A bill in equity for foreclosure of mortgage has been filed by Allen & Robinson against J. K. Nakookoo and E. K. Nakookoo. The mortgage is on a piece of land at Kalaupapala, Kailua, containing an area of 6385 square feet, and was given to secure a promissory note for \$588, dated April 30, 1903, with interest of 8 per cent. per annum payable semi-annually.

### ABOUT TWO COWS.

Judge Robinson yesterday partly heard an appeal by plaintiff from District Magistrate E. P. Aikue, Koolau-poko, Oahu, in the suit of Maleka Halele against Frank Pahia, claiming damages of \$100 for the taking possession and conversion to his own use of two cattle, an aged cow and a young cow, valued at \$60. Judgment was given for defendant with costs in the court below. C. W. Ashford appeared for the appellant, W. C. Achi for the defendant.

### LAND COURT DECREES.

Judge P. L. Weaver has signed a decree of land registration in favor of John Pekero Makalwa, a minor, for a lot at Kaakopua, Honolulu, containing 6175 square feet.

Another decree of registration in the Land Court is in favor of John William Thompson for lot 12, block 35, peninsula part of Pearl City, containing an area of 14,000 square feet.

## FORTIFICATION DEALS

### TO CLOSE MONDAY

Yesterday United States District Attorney Breckons received advices from Washington to the effect that the Attorney-General had approved the titles to the fortification sites at Puuloa and Waiwale, after certain specified deeds had been executed and putting it up to the District Attorney to see that the papers were got in order at once. Mr. Breckons had an extra stenographer at work on the deeds yesterday and expects to close all the deals for the sites and pay over the purchase prices not later than next Monday.

When these deals are completed it is expected that the War Department will at once proceed with the preliminary steps looking to the building of the forts.

### Honolulu No Refuge.

WASHINGTON, Nov. 17.—Orders were cable-today to Rear-Admiral Terry, in command at Honolulu, to look out for the arrival of Japanese and Russian cruisers. Definite instructions were sent to Terry how to deal with vessels asking for coal or privilege of repairs. The twenty-four hour limit is to be strictly enforced. Similar orders were sent a few days ago to Rear-Admiral McCalla at Mare Island.

### WHAT TO DO UNTIL THE DOCTOR ARRIVES.

If it is a case of colic or cholera morbus give Chamberlain's Colic, Cholera and Diarrhoea Remedy and you will have no need of a doctor. It is pleasant to take and never fails to give prompt relief. Why not buy it now? For sale by all Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

### Hawaiians at Yale.

In the Yale Alumni Weekly the following notice concerning Hawaiian students occurs: Hawaiian Club—President, Charles S. Judd, '05; vice-president, Bruce Cartwright, Jr., '05 S.; secretary and treasurer, Abraham G. Kaulukou, '05 L.S.; members, (Kahuna Hulakui,) George P. Cooke, '05, and Noah Aluli, L.S.

By the steamer Alameda a large box of beautiful dolls was received by the ladies' executive committee of the Chinese Fair. About a dozen of the dark-complexioned ones are being dressed in the national costume of the Flowery Kingdom by Chinese ladies.

## WHAT A BLESSING

Many People Are Learning to Appreciate in Honolulu.

What a blessing it is. Sought after by thousands. Honolulu is finding it out. Many a miserably man is happy now. Nights of unrest, days of trouble. Any itching skin disease means this. Itching Piles mean it. Eczema just as bad, and just as bad to cure.

But Doan's Ointment relieves at once, and cures all itching of the skin. A blessing to a suffering public. Here's proof to back our statement: Mr. H. Ryall, of No. 11, Governor St., South Yarra, a very old resident of Melbourne, Australia, states:

"For some considerable time I have been a sufferer from that annoying complaint known as irritating piles. At times the irritation was very annoying, especially at night, and in the warm weather. I applied some of Doan's Ointment, which I had obtained and I am pleased to say that it gave me the desired relief from this annoying disease."

Doan's Ointment is splendid in all diseases of the skin: Eczema, piles, bites, insect bites, sores, chubblains, etc. It is perfectly safe and very effective. Very frequently two or three boxes have made a complete cure of chronic cases that have not yielded to other remedies for years.

Doan Ointment is sold by all chemists and storekeepers at 50 cents per box, or will be mailed on receipt of price by the Hollister Drug Co., Ltd., agents for the Hawaiian Islands.

# IS HAWAII TO HAVE A BIG SUGAR REFINERY?

## Examiner Says That Plans Are Now Under Way For the Construction of a Plant On This Island.

The Examiner says: Plans are now being formed for the erection of a large sugar refinery in the Hawaiian Islands, with a view of sending the refined sugar to this country in competition with other refineries that are now sending the product over here. The Honolulu Plantation Company is to be the owner of the new enterprise, and J. A. Buck, the president of the concern, is now in Hawaii looking over the ground. Nothing definite can as yet be learned, and full information on the matter will not be known until Buck's return from the islands.

It has been said that some of the large wholesalers are to be interested in the new refinery, notably Tillmann & Bendel of 327 Battery street and M. Ehrman & Co. of 104 Froht street. C. H. Schmidt, the vice-president of the first named firm, denies that his company has anything to do with the affair. Frederick Tillmann, the head of the firm is now at St. Louis and will not return for a month. Mr. Schmidt said yesterday:

"The idea prevails among the wholesalers that the Honolulu Plantation Company is about to erect a large refinery in the islands. I understand that it intends to refine its own sugar and then send over here. The firm of Tillmann & Bendel is not interested in the matter. Frederick Tillmann, the president, may have private interests in this scheme of which I know nothing. Tillmann is now at St. Louis."

At the office of the Plantation Company news was very scarce. Word was given out that the plans have not yet come to a head and nothing was ready for publication.

H. W. Thomas, the secretary of the Honolulu Plantation Company, who has offices at 327 Market street, said:

"I have nothing to give to the papers, because I know but little myself. Buck is now in the islands looking over the ground, and until he returns nothing definite will be known of the affair. The last steamer from Honolulu did not bring any letters from Buck regarding what he had done, and I am somewhat in the dark myself. I can say nothing until we have arrived at some decision about our future movements."

At the office of M. Ehrman & Co. nothing could be learned about the connection that firm has with the new enterprise. Myer Ehrman, the head of the firm, had gone home and all questions of the firm's interest were referred to him. A call was made at the home of Mr. Ehrman, at 2618 Jackson street, but he could not be found there. Word was given the reporter that "Mr. Ehrman is not in."

## H. E. PICKER A WALKING ENCYCLOPEDIA OF HAWAII

H. E. Picker, the insurance man and yachting enthusiast, returned from the mainland yesterday in the Manchuria, and bespeaks a bright future for Hawaii from what he gathered of people's impressions concerning the islands.

"I went to St. Louis to attend the convention of insurance men, held at the Exposition grounds," said he yesterday, "and from there I went to New Orleans and Mexico."

"I found, after beginning my travels, that I had to be a walking encyclopedia on Hawaiian matters, for whenever I mentioned I was from Hawaii, people wanted to know all about the islands. I told them about all I knew and I hope I have done some good promotion work."

"On the Pacific Coast, Hawaii is constantly spoken of. Hawaii is making a name for herself steadily, and much of this of late I attribute to the rise in the price of sugar."

"If one-half the people who promised me they would come down to Hawaii in the next year, do so, this town ought to be pretty full of strangers."

"I found the literature of the Hawaii Promotion Committee in many places—at St. Louis, New Orleans, and on many trains."

## FEDERAL GRAND JURY WILL HOLD A SPECIAL SESSION

Ever since the election there has been a growing sentiment of dissatisfaction in the minds of some of the defeated candidates over the circumstances that numbered ballots were voted in certain election precincts. It will be remembered that, immediately following the election, there were charges of fraud made, more or less openly, but the whole thing simmered down to a matter of mere stupidity on the part of some few election officers, and it was supposed that the decisive vote by which the result was determined had settled the matter.

Well, it hasn't. It seems that the late Democratic candidate for Delegate for Congress has not been willing to let the thing rest, and United States District Judge Dole has decided, it is said, to issue a call for a special session of the Federal grand jury on Monday to look into the matter of the alleged irregularities.

"I don't know anything about it,"

## CREDIT FOR THE KAWAULA TUNNEL

Editor Advertiser: Allow me to correct some errors in yesterday's Advertiser under the heading "Water De-

velopment on Valley Isle," by Carl Waldeyer. While engineer of the Pioneer Mill Co. for three and a half years, among other hydraulic works, I planned and directed all the works of the water development and am still consulted on the subject. The Kaula tunnel was begun in June, 1901, with Ogata as contractor, a very faithful

and competent Japanese who afterwards lost his life in the tunnel. Credit is due to his memory for packing up the heavy machinery and installing most of the plant, under directions. Mr. Waldeyer is the fourth contractor who has been employed on this tunnel, the cost of which has been from \$3.50 to \$7.00 per foot, and he has duly driven the tunnel on the line and grade directed by me, but he has not been employed either as engineer or expert.

The other tunnels have also been driven by contract, which is the best way to do this kind of work.

The subject is one of much interest and promises and will be discussed later when sufficient progress has been made.

Yours truly,

J. S. MOLONY, C. E.  
Oahu Sugar Co., Waipahu.  
Nov. 23, 1904.

## HIS TOE AMPUTATED

### Gerrit Wilder Hurt While Pruning a Tree.

Gerrit P. Wilder had the misfortune to meet with an accident yesterday forenoon, resulting in the amputation of one of his toes. He is now resting easy at Miss Johnson's Sanitarium.

Mr. Wilder was in the act of pruning a peach tree when the knife fell, striking his foot and severing the muscles of one toe, besides lacerating the foot considerably. Dr. Herbert was called and on his advice Mr. Wilder was taken to the Sanitarium where the operation was performed.

### SORE MUSCLES.

Prominent athletes throughout the country find that the best treatment for sore muscles after severe exercise or hard work of any kind, is a hot bath at bed time, which opens the pores. This should immediately be followed with an application of Chamberlain's Pain Balm vigorously rubbed into the skin. This liniment removes all stiffness and soreness and has become a favorite rub down, as it acts promptly and keeps the muscles in excellent condition. For sale by all Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

## SECRETARY ATKINSON'S BOND MISSION EAST

The Chronicle says: A. L. C. Atkinson, Secretary of the Territory of Hawaii, was a passenger on the steamer Alameda, which reached port yesterday from Honolulu. He is a guest at the Palace. Secretary Atkinson is on his way to New York to undertake the floating of \$1,000,000 of Territorial bonds. Speaking of his mission yesterday, he said:

"The Territory of Hawaii is authorized to issue, for the purposes of public improvement, bonds to the amount of 3 per cent of its assessed valuation, with the proviso, however, that not more than \$1,000,000 of bonds may be issued in any one year. It is not the purpose of the Territory, however, to issue more than \$3,000,000 of bonds, and it may be that only \$2,000,000 will be issued. Last year Governor Carter, then Secretary of the Territory, went East and floated the first issue of \$1,000,000, the proceeds from which have been used in improving the sewer system of Honolulu and in the building of wharves, roads and bridges. The proceeds from the second issue of \$1,000,000, which it is my business to dispose of, will be used to complete the improvements already undertaken. Whether an additional \$1,000,000 of bonds will be disposed of next year has not been decided. The Territory's bonds issued last year were disposed of at a good price, and I am hopeful that we will be able to secure a good figure for those now to be sold." Secretary Atkinson will depart for the East this morning.

### A BROKEN DOWN SYSTEM.

This is a condition (or disease) in which doctors give many names, but which few of them really understand. It is simply weakness—a breakdown, as it were, of the vital forces that sustain the system. No matter what the cause (for they are almost numberless), its symptoms are much the same; the more prominent being sleeplessness, sense of prostration or weariness, depression of spirits and want of energy for all the ordinary affairs of life. Now, what alone is absolutely essential in all such cases is INCREASED VITALITY—VITAL STRENGTH AND ENERGY—these of these morbid feelings, and experience proves that as night succeeds the day this may be more certainly secured by a course of the celebrated life-reviving tonic

### THE CAPTION NO. 3

than by any other known combination. So simple as it is taken in accordance with the printed directions accompanying it, the shattered health be restored, the EXPIRING LAMP OF LIFE LIGHTED UP AGAIN, and a new existence, braced to the point of what had so lately seemed worn-out, "used up" and rainless. This wonderful medicine is purely vegetable and innocuous, is agreeable to the taste—entirely free from all constitutions and could be taken in either way, and it is difficult to imagine a case of disease or derangement, whose main features are those of debility, that will not be speedily and permanently benefited by this powerful life-reviving tonic, which is destined to cast into oblivion everything that had preceded it for this widespread and numerous class of human ailments.

### THERAPION

is sold by the principal Chemists throughout the world. Price in England, 2/6 and 4/6. For those who would see that the word "Therapion" appears on British Government Stamp (its white letters on a red ground) affixed to every package by order of His Majesty's Hon. Commissioners, and without which it is a forgery.



## "The Cultivation of the Sugar Cane"

a treatise on the fundamental principles of growing Sugar Cane, should be in the hands of every planter.

The value and use of

## Nitrate of Soda

(THE STANDARD AMMONIATED) in increasing and bettering the growth of Sugar Cane is now so well understood that the real profit in sugar growing may be said to depend upon its use.

This Book and other valuable Bulletins of value to every one engaged in agriculture, are sent entirely free to anyone interested. Send your name and complete address on Post Card.

Wm. S. Myers, Director, 13-15 John St., New York.

## Hamberg-Bremer Fire Insurance Co

The undersigned having been appointed agents of the above company, are prepared to insure risks against fire on Stone and Brick Buildings and on Merchandise stored therein on the most favorable terms. For particulars apply at the office of

F. A. SCHAEFER & CO., Asts.

## North German Marine Insurance Co. OF BERLIN.

## Fortuna General Insurance Co. OF BERLIN.

The above Insurance Companies have established a general agency here, and the undersigned, general agents, are authorized to take risks against the dangers of the sea at the most reasonable rates and on the most favorable terms.

F. A. SCHAEFER & CO., General Agents.

## General Insurance Co. for Sea River and Land Transport of Dresden.

Having established an agency at Honolulu and the Hawaiian Islands, the undersigned general agents are authorized to take risks against the dangers of the sea at the most reasonable rates and on the most favorable terms.

F. A. SCHAEFER & CO., Agents for the Hawaiian Islands.

## UNION PACIFIC

The Overland Route.

It was the Route in '49!  
It is the Route today, and  
Will be for all time to come.

### THE OLD WAY.



### THE NEW WAY.



"THE OVERLAND LIMITED."

ELECTRIC LIGHTED

RUNNING EVERY DAY IN THE YEAR

Only Two Nights between Missouri and

San Francisco

Montgomery St. San Francisco, Cal

S. F. BOOTH.

General Agent.

## POLICE WORKED

### WELL IN THE WET

The police were rather active yesterday afternoon and evening in spite of the inclement weather. Thirty-five Japanese are in on the charge of gambling. They were playing craps and the Japanese "Flower" game. A couple of these are also charged with the more serious offense of attempting to bribe an officer. They were willing to pay \$15 to have the officer let the crowd escape.

Seven Axiatics forgot the scare of the previous Sunday and opened their shops yesterday—to their sorrow, as they are now locked up at the Police Station. Piliipo Kaleikoa was run in for being disobedient and Kong Chong for violating the ordinance against riding or driving on the sidewalk.



85 S. King St. Honolulu, Hawaii



## POLICE SUSPECT THE YOUNG HOTEL THIEF

The police are still engaged on the Young Hotel robbery case, but no arrests have yet been made. It is rumored that the police have about come to the conclusion as to the identity of the thief, but will obtain complete evidence before making an arrest. Detective Hatter is given credit for the evidence so far adduced.

A Chinese assault and battery case, involving a cross complaint of malicious injury, was heard in Judge Judd's court yesterday afternoon. The complaining witness, who had spent three days in jail, said the reason he had had the defendant arrested was because he did not separate him (complainant) from a man whom he alleged was battering him. The case ended in a general discharge of all hands.

Breakers of the Sabbath law were in court and all but one went free. The lone Oriental who was soaked preferred to plead not guilty and fight his case. The result was he was found guilty and fined \$25. The others pleaded guilty and sentence in their cases was suspended thirty days. The intention of the High Sheriff is to give everybody a chance to get familiar with the law before throwing offenders into the bastle.

Crap shooters lost to the Deputy High Sheriff who knew how to roll legal bones better than the real ivory. Each crapper lost \$5 to the deputy. One of the gamblers, Fushimura, by name, is held on an additional charge of bribery, having attempted to induce policeman Frank Kane to release him on payment of \$5. He will now plead to the charge of bribery.

Owing to the grand jury having taken charge of the case, the charges of embezzlement against H. C. Mossman were stricken from the Police Court calendar.

The grand jury is to investigate the case of Toepelmann, who, since he was injured on the head more than a week ago, has been confined to a cot in the Queen's Hospital.

Hama Kealoha, who has frequently appeared in Police Court cases as defendant, was arrested yesterday and sent to the tanks on a charge of burglary in the second degree. He is alleged to have broken into a Japanese store. The owner caught Kealoha and held him until the police arrived.

A Japanese named Hunda is charged with having stabbed a countryman of his at Wailua on Friday night.

The case of W. A. McKay, charged with selling liquor without a license, was continued on motion of Deputy Sheriff Rawlins. The latter stated that two important witnesses for the prosecution were not to be found and he believed they had been induced to leave the city. It was understood the men were on Hawaii but would probably be returned on the Kauai.

Complaint was made to the police yesterday by Fujita that car 35 of the Rapid Transit Company had damaged his hack on Beretania street. The complainant stated that he had a sick passenger in his vehicle and had stopped before a doctor's office to let the patient out when the car struck the hack from the rear.

**Kauikaouli's Repairs.**

The island schooner Kauikaouli is on the ways being repaired. Many of the planks have been removed and the entire hull is being strengthened by new timbers.

## GEAR TAKES BACK WATER

(Continued from page 1.)

Answer to a question that the Attorney General was present on account of a letter he had received from the Governor—the letter which Governor Carter gave out for publication in the Advertiser—proceeded to deliver his ruling on the Governor's refusal to honor the subpoena, which he said he had reduced to writing so that all things might be clearly shown.

In the course of the deliberation it was argued at length that a defendant was entitled to have any person subpoenaed on his behalf, quoting from the Federal decision in the Aaron Burr case to show that even the President of the United States is not exempt from the process.

Reference was made to the Governor's admission that the court was of a co-ordinate department of the Territory, and the court represented that it was its department and not the executive's which had the construing of the laws. The local laws with regard to subpoenas were quoted, showing that here the process is issued in blank, that a clerk may insert the name of a witness and that the subpoena is obligatory upon the parties served therewith. On this the court says and concludes:

"Never before in this Territory, so far as the court knows, has any Governor of this Territory refused to comply with a subpoena and this question has not therefore arisen here. He certainly is not excepted by the terms of the statute which makes a subpoena obligatory upon the parties actually served. No martial law has been declared, as was the case in Pennsylvania, and the court is unable to find a substantial reason for the Governor's refusal to become a witness in this case."

"As to the materiality of the evidence sought to be obtained, that question is one for the court to pass upon. However, understanding clearly as I do that the chief executive has refused to obey the subpoena I am yet averse to having him brought into court to show cause why he should not be committed for contempt and will therefore order that the citation do not issue. In so doing I do not overlook the right of the defendant to have produced all material evidence for his defence. When the proper time comes I shall rule on the materiality of the testimony which it is alleged the Governor would give. Should it be held by the court that such testimony is not material the matter will end there. On the other hand, should the court hold that the testimony is material the prosecution will be compelled to admit as set forth in the motion that such facts are true, or, upon the refusal of the prosecution so to admit, the jury will be instructed to return a verdict of not guilty for a refusal to have afforded to the defendant his constitutional rights."

**DIX SHOULD HAVE  
GOOD WEATHER**

The transport Dix, with mules, burros and horses, was looked for yesterday from San Francisco. The vessel is now out eleven days. Although the transport may have met bad weather between here and the coast, the Pacific Ocean charts state that at this time of the year the Asiatic waters will be fairly free from typhoons and hurricanes. The transport is therefore likely to land her cargo in Manila in fairly good condition.

## THE FUNDAMENTAL LAW OF HAWAII: A NEW LAW BOOK

Edited and Indexed By Lorrin A. Thurston and  
Published By the Hawaiian Gazette  
Company, Ltd.

The Hawaiian Gazette Company, Ltd., announce the publication of a book, edited and indexed by Lorrin A. Thurston, containing the several constitutions and other fundamental laws of earlier days, the annexation treaty, resolutions and procedure and the Organic Act.

The book contains 298 pages of text and 138 pages of index. It is printed in regulation law book type and style and is substantially bound in calf skin.

The price is \$5.

The scope and character of the book and the reasons for its publication are given in the preface, which is as follows:

### PREFACE TO THE FUNDAMENTAL LAW OF HAWAII.

Congress has expressly enacted a law organizing Hawaii into a Territory, and extended the provisions of the United States Constitution to the Territory.

In a restricted sense, therefore, the United States Constitution and the Organic Act constitute Hawaii's fundamental law; but the Organic Act specifically re-enacts the great body of pre-existing Hawaiian statute law, which was based upon the several Hawaiian Constitutions and organic laws.

A large proportion of the law governing real estate, property and personal rights in Hawaii being based upon these early constitutions and laws, and precedents, decisions and court practice having grown out of them, it is necessary to consult them in order to have a comprehensive understanding of existing Hawaiian law. They are nearly all published, however, in books now out of print, and in scattered volumes, inaccessible to many, and inconveniently located for all. In fact, even practicing lawyers in Hawaii can, except at considerable loss of time, place their hands on the laws and constitutions necessary for the study and decision of practical questions continually being presented to them.

Under these circumstances it is believed that the public interest requires the re-publication in convenient reference form of what may be called "the fundamental law of Hawaii." To meet this requirement the following constitutions, laws and documents have been compiled under the common title of "The Fundamental Law of Hawaii," viz:

1. The first Constitution of Kamehameha III, 1840, including the previously issued Bill of Rights.
2. The first laws of Hawaii, enacted under Kamehameha III, (1833-1842), published together in 1842.
3. The law creating and principles guiding the Land Commission.
4. The second Constitution of Kamehameha, III, 1852.

Hawaiian Gazette Company, Honolulu, T. H.

Enclosed herewith find five dollars to pay for one copy of the Fundamental Law of Hawaii, which please send to

Name .....

Address .....

Cut this out and mail it to the Hawaiian Gazette Company, Honolulu, T. H. with \$5 and the Fundamental Laws of Hawaii will be immediately mailed to you, postage prepaid.

## SAILOR KAUKI WAS DROWNED

The report of the drowning of Kauki, a sailor of the steamer Helene at Papakou, Hawaii, November 18, was received yesterday by High Sheriff Henry from Deputy Sheriff Fetter. The report includes statements by Captain Nelson, First Officer Wier, boatsteerer Solomon and seaman Kalamuli of the Helene. The deceased was about 22 years of age, married and resided at Alea. The report says:

"Kauki was a sailor on board the S. S. Helene. On the morning of November 18 the Helene was discharging freight at Papakou and Kauki was working in one of the boats. While the boat was lying at Papakou near the derrick a heavy sea came and swamped the boat. Four of the men jumped into the sea and swam towards the steamer, but Kauki did not jump. He stayed in the boat until it drifted among the rocks, then he jumped out and swam towards shore. Some one threw a life-buoy to him and he made several attempts to catch it, but did not succeed. Immediately after that he sank and was not seen again that day. The undercurrent must have carried him away."

## GOODS ON A DOCK DAMAGED

During Sunday's rainstorm nearly a thousand dollars' worth of freight landed from the ship George Curtis on the Bishop dock, was damaged. Water-fronters say that few docks here are constructed in a way which will prevent water from running in under the sheds. There is no crown to the flooring and a rainfall generally sends the water to the central portions. The Oceanic dock has something of a dip toward the edge of the dock.

5. The Constitution of Kamehameha V, 1864.

6. The Constitution of Kalakaua, 1887.

7. The Proclamation and orders incident to the establishment of the Provisional Government, 1893.

8. The Constitution of the Republic of Hawaii, 1894.

9. The treaty annexing Hawaii to the United States, 1897.

10. The Resolution of the Hawaiian Senate ratifying the annexation treaty, 1897.

11. The Joint Resolution of Congress annexing Hawaii, 1898.

12. The documents and procedure incident to the transfer of the sovereignty and possession of Hawaii to the United States, 1898; and the executive orders of President McKinley, relating to the government of Hawaii, issued during the transition period between the date of annexation and the passage of the Organic Act, 1898-1900.

13. The Act of Congress organizing Hawaii into a Territory, 1900.

The laws of 1842 are not "fundamental" in the sense that the constitutions and other laws and documents are; but they have been included herein for the reason that they were not only the first written laws of Hawaii, but embodied many of the pre-existing laws and customs of the country and therefore throw a strong light upon the origin and development of much of the present law.

Only a few of the laws, constitutions and documents re-published, have ever been indexed. A full index of all of them is included herein. Instead of one general index, each is indexed separately. The reason for such treatment is that reference will usually be desired to a given subject in some one law or constitution. The subject sought will be much easier found in the short index of the particular law, than if it would have been in a necessarily long index of the whole.

The table of contents gives the page of each constitution and law and of its index.

## ROAD-BREAKING MACHINE HERE

In the freight landed from the Alameda is a heavy road-breaking machine consigned to the Territorial Government. The machine is mounted on heavy wheels, one in front and one at the rear, two being centrally located. The machine is not large but is very heavy. In the base are perforations through which steel spikes are placed. By a graduation of the front and rear wheels, the machine, being drawn by horses or a traction engine, rips up a hard road.

Rev. John W. Wadman will deliver a lecture on Thursday evening at the M. E. parsonage. The subject will be "Bushido." Tickets are now on sale at Trent & Co.'s and at the grocery store of C. J. Day & Co.

### COURT NOTICES

HACKFELD VS. P. E. LAMAR.

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, TERRITORY OF HAWAII—OCTOBER TERM, 1904.

H. Hackfeld & Company, Ltd., a Corporation, Plaintiff, vs. P. E. Lamar, Defendant, The Pioneer Mill Co., Ltd., a Corporation, Garnishee.

ORDER OF COURT FOR PUBLICATI-

ON OF SUMMONS.

Upon reading and filing the affidavits of L. N. Baldwin, and D. H. Case, and it appearing to me therefrom that defendant P. E. Lamar, has removed from, and is now a non-resident of the Territory of Hawaii, and that he is now living in the city of San Francisco, State of California; and it also appearing from said affidavits that a cause of action in assumpsit exists between said H. Hackfeld & Company, Ltd., as plaintiff, and said P. E. Lamar, as defendant, and

that said P. E. Lamar is a necessary party thereto; and, it further appearing that a summons has been duly issued in the above entitled case, and due and diligent inquiry and search made for said P. E. Lamar for the purpose of making personal service thereof upon him as defendant, but that same was not and could not be had for the reasons hereinafore stated, and by said affidavits made to appear:

Now, therefore, it is ordered that service of summons in this action be made upon the defendant, P. E. Lamar, by publication thereof in the Hawaiian Gazette, a semi-weekly newspaper, published in the English language in Honolulu, Oahu, Territory of Hawaii, and hereby designated as a newspaper suitable for the advertisement of notice of judicial proceedings; that such publication be had and made at least once a week for four consecutive months; and

It further appearing from a reading of said affidavits, that said defendant, P. E. Lamar, is located in and about the city of San Francisco, State of California;

It is further ordered and directed that a copy of the summons and complaint in the above entitled case be forwarded forthwith by being deposited in the United States Postoffice at Walluku, Maui, postpaid, directed to said P. E. Lamar, at San Francisco, State of California.

Service herein shall be deemed completed at the expiration of time prescribed by the order of this court, this cause to stand continued to, and be triable at, the regular March term 1905 of this court.

(Sgd.) A. N. KAPOKAI,

Judge of the Circuit Court, Second

Judicial Circuit.

Attest:

(Sgd.) EDMUND H. HART,

Clerk, Second Circuit Court,

(Seal.) 2628

## FORECLOSURES

### MORTGAGEE'S NOTICE OF FORE-

### CLOSURE.

#### KOPEA AND KAPAKI.

In accordance with the provisions of a certain mortgage made by Kopea and Kapaki of Honolulu, Island of Oahu, Territory of Hawaii, to Samuel C. Allen, of said Honolulu, now deceased, dated July 12th, 1902, and recorded in the office of the Registrar of Conveyances, Honolulu, Oahu, in Liber 237, on pages 242 and 243, notice is hereby given that the Executors and Trustees under the Will and of the Estate of said mortgagee intend to foreclose the same, in accordance with the terms of said mortgage and the Hawaiian laws, for condition broken, to the non-payment of principal and interest.

Notice is likewise given that, after the expiration of three consecutive weeks from the date of the first publication of this notice, said Executors and Trustees of said mortgagee intend to and will foreclose said mortgage and will advertise for sale the property covered and conveyed thereby and will sell the same at public auction at the auction rooms of Jas. F. Morgan, on Kaahumanu street, in said Honolulu, on Saturday, December 3rd, 1904, at 12 o'clock noon of said day.

Following is the description of said property:

All of that piece of parcel of land situated at Puunui, Honolulu, Oahu, being a part of Royal Patent 2650 to H. A. Widemann; more particularly described as follows:

1. Apanas 43 and 45, block 3; beginning at the West corner of Apanas 43; the same being the East corner of Apana 41 and running:
1. N. 52° E. 100 ft. along Puunui Road;
2. S. 38° E. 100 ft. along Apanas 47;
3. S. 52° W. 100 ft. along Apanas 46 and 44;
4. N. 38° W. 100 ft. along Apana 41, to initial point, containing an area of 10,000 square feet and being the same premises conveyed to the aforesaid mortgagors by deed of W. C. Achi dated March 18th, 1902, and recorded in the office of the Registrar of Conveyances, Honolulu, Oahu, in Liber 234, pages 179 and 180.

Further particulars can be had of Kinney, McClanahan & Cooper, Judd Building, Honolulu.

Dated Honolulu, T. H., Nov. 5th, 1904.

BATHSHEBA M. ALLEN,  
MARK P. ROBINSON,  
JOSEPH O. CARTER,  
PAUL MUEHLENDORF,  
Executors and Trustees under the Will and of the Estate of Samuel C. Allen, deceased.

2640—Nov. 11, 12, 25, Dec. 2

## SPARKLING Heptol Split!

The most ideal LIVER, STOMACH and BOWEL REGULATOR and TONIC BEVERAGE.

Effervescing, Palatable and guaranteed harmless. It will immediately relieve and cure Biliousness, Constipation, Indigestion, Headache from any cause, overindulgence in eating, drinking or smoking.

## A HEPTOL SPLIT

Occasionally before breakfast or other meals insures good health.

Directions: Contents of one bottle for Adults; drink while effervescing.

## TRY IT

Price 15 cts. See our window display.

## Hollister Drug Co

AGENTS.

FORT STREET.

## EXTRAORDINARY OFFER

The INTER-OCEAN free for One Year.

By special arrangement we are enabled to offer the WEEKLY INTER-OCEAN, of Chicago, absolutely free of charge to all new subscribers to the HAWAIIAN GAZETTE (Semi-weekly), who send in their subscriptions between now and January 1st, 1905, such subscriptions to be for one year. This does not apply to renewals.

The WEEKLY INTER-OCEAN is the leading journal of the Middle West and in addition to its perfect news service has many new and valuable features among which are its Farm Department, Forestry and Floriculture, Care of the Horse, Boys and Girls page, International Sunday School Lesson, Home Health Club, Health and Beauty Hints, New Household Ideas, Practical Cookery, Latest Styles for all Ages, Best Fiction, full Crop and Market reports.

This is undoubtedly the greatest premium offer ever made in this Territory, being something of lasting, practical benefit

to all who take advantage of it.

SEMI-WEEKLY HAWAIIAN GAZETTE for one year with Weekly Inter-Ocean for one year, both postpaid to our address for \$5.00 the regular price of the Gazette alone. Payable strictly in advance.

## Hawaiian Gazette Co., Ltd.

65 South King Street.

Honolulu, Hawaii.

## VESSELS IN PORT.

### ARMY AND NAVY.

U. S. S. Iroquois, Niblack, Station vessel.

### MERCHANT VESSELS.

Alameda, Am. S. S., Dowdell, San Francisco, Nov. 25.

Coronado, Am. bkt., Potter, San Francisco, Nov. 23.

Erskine M. Phelps, Am. sp., Graham, Philadelphia, Aug. 31.

George Curtis, Am. bkt., Calhoun, S. F., Nov. 20.

Herzogin Sophie Charlotte, Ger. sp., Wernecke, Leth, Nov. 16.

Kaulani, Am. bkt., Holly, San Francisco, Nov. 14.

### The Mails.

Mails are due from the following points as follows:

San Francisco—Per Coptic, Dec. 2.

Yokohama—Per Siberia, Nov. 29.

Colonies—Per Ventura, Dec. 6.

Victoria—Per Moana, Dec. 17.

Mails will depart as follows:

San Francisco—Per Alameda, Nov. 30.

Yokohama—Per Coptic, Dec. 3.

Colonies—Per Sonoma, Dec. 7.

Victoria—Per Aorangi, Dec. 14.

### BORN.

DICKINS—At Walluku, Maui, on Sunday, Nov. 20, 1904, to the wife of A. G. Dickins, a son.

PENHALLOW—At Pala Hospital, Maui, on Monday, Nov. 21, 1904, to the wife of H. B. Penhallow, a son.

### DIED.

MEYER—At Walluku, Maui, Nov. 24, 1904, Mrs. Mary Meyer, beloved wife of D. L. Meyer, aged 44 years.

### DO NOT BE INFLUENCED.

Never hesitate to say "No" to your dealer if he offers you a substitute for Chamberlain's Cough Remedy. It has no equal on the market for the prompt cures of coughs, colds, croup and whooping cough and you make no mistake in buying this medicine. For sale by all Dealers and Druggists. Benson, Benson, Smith & Co., Ltd., Agents for Hawaii.